

H .B. NO. 1043

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) Except
4 for Section 42(b) of the Internal Revenue Code, which shall not
5 be operative for purposes of this chapter, Section 42 (with
6 respect to the low-income housing credit) of the Internal
7 Revenue Code shall be operative for [~~the~~] purposes of this
8 chapter as provided in this section.

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

1 (c) The amount of the low-income housing tax credit that
2 may be claimed by a taxpayer as provided in subsection (b) shall
3 be [fifty per cent of the applicable percentage of the qualified
4 basis of each building located in Hawaii. The applicable
5 percentage shall be calculated as provided in section 42(b) of
6 the Internal Revenue Code.] equal to the amount of the federal
7 low-income housing tax credit that the taxpayer claimed or could
8 have claimed pursuant to Section 42 of the Internal Revenue Code
9 for the same taxable year with respect to each qualified low-
10 income building located in Hawaii; provided that, for purposes
11 of subsection (b), the taxpayer may claim a low-income housing
12 tax credit only with respect to the amount of federal low-income
13 housing tax credit claimed for the first five years of the
14 credit period for each respective qualified low-income building,
15 as defined in Section 42(f)(1) of the Internal Revenue Code that
16 is located in Hawaii; and, further provided that the amount of
17 the low-income housing tax credit claimed by a taxpayer shall be
18 computed without regard to any federal low-income housing tax
19 credit that is carried forward from a prior taxable year.

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

- 1 (1) Qualified basis and qualified low-income building
- 2 shall be made under section 42(c);
- 3 (2) Eligible basis shall be made under section 42(d);
- 4 (3) Qualified low-income housing project shall be made
- 5 under section 42(g);
- 6 (4) Recapture of credit shall be made under section 42(j),
- 7 except that the tax for the taxable year shall be
- 8 increased under section 42(j)(1) only with respect to
- 9 credits that were used to reduce state income taxes;
- 10 (5) Application of at-risk rules shall be made under
- 11 section 42(k);

12 of the Internal Revenue Code.

13 (e) As provided in section 42(e), rehabilitation

14 expenditures shall be treated as separate new building and their

15 treatment under this section shall be the same as in section

16 42(e). ~~[The definitions and special rules relating to credit~~

17 ~~period in section 42(f) and the]~~ The definitions and special

18 rules in section 42(i) shall be operative for the purposes of

19 this section.

20 (f) The definitions and special rules relating to credit

21 periods in section 42(f) shall be operative for the purposes of

22 this section; except that section 42(f)(1) of the Internal

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1 Revenue Code shall be modified as follows: the term "credit
2 period" means, with respect to any building, the period of five
3 taxable years beginning with:

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

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

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

11 [~~f~~] (g) The state housing credit ceiling under section
12 42(h) shall be zero for the calendar year immediately following
13 the expiration of the federal low-income housing tax credit
14 program and for any calendar year thereafter, except for the
15 carryover of any credit ceiling amount for certain projects in
16 progress which, at the time of the federal expiration, meet the
17 requirements of section 42.

18 [~~g~~] (h) The credit allowed under this section shall be
19 claimed against net income tax liability for the taxable year.
20 For the purpose of deducting this tax credit, net income tax
21 liability means net income tax liability reduced by all other
22 credits allowed the taxpayer under this chapter.

1 A tax credit under this section which exceeds the
2 taxpayer's income tax liability may be used as a credit against
3 the taxpayer's income tax liability in subsequent years until
4 exhausted. All claims for a tax credit under this section must
5 be filed on or before the end of the twelfth month following the
6 close of the taxable year for which the credit may be claimed.
7 Failure to properly and timely claim the credit shall constitute
8 a waiver of the right to claim the credit. A taxpayer may claim
9 a credit under this section only if the building or project is a
10 qualified low-income housing building or a qualified low-income
11 housing project under section 42 of the Internal Revenue Code.

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

15 ~~(h)~~ (i) The director of taxation may adopt any rules
16 under chapter 91 and forms necessary to carry out this section."

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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1 SECTION 3. This Act shall take effect on January 1, 2010,
2 and apply to buildings placed in service after December 31,
3 2009.

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5 INTRODUCED BY: Calvin K. Y. Song

6 BY REQUEST

JAN 26 2009

Report Title:

Low-Income Housing Tax Credits

Description:

Makes 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.

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 capita 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 LIHTCs 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 or 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.

Impact on the public: Will provide more incentives for the development of affordable rental housing projects.

Impact on the department and other agencies:
None.

GENERAL FUND:	FY 2010-2011:	\$1,250,000
	FY 2011-2012:	\$2,500,000
	FY 2012-2013:	\$3,125,000
	FY 2013-2014:	\$3,250,000
	FY 2014-2015:	\$3,375,000

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BED 160.

OTHER AFFECTED
AGENCIES:

TAX

EFFECTIVE DATE:

January 1, 2010.