
A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

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

1 SECTION 1. Chapter 201H, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§201H- Low-income housing tax credit loan. (a) The
5 corporation may provide a no interest low-income housing tax
6 credit loan to an owner of a qualified low-income building that
7 has been awarded federal credits which are subject to the state
8 housing credit ceiling under Section 42(h)(3)(C) of the Internal
9 Revenue Code or a subaward under Section 1602 of the American
10 Recovery and Reinvestment Act of 2009, Public Law 111-5. The
11 loan shall be in an amount equal to per cent of the cash
12 value of the amount of the low-income housing credit determined
13 under section 235-110.8 for each taxable year in the ten year
14 credit period discounted to present day value and capitalized at
15 the rate of interest on the taxable general obligation bonds
16 used to fund such loan.



1 (b) A qualified low-income building for which the owner is
2 provided a low-income housing tax credit loan under this section
3 shall not be eligible for the credit under section 235-110.8.

4 (c) The corporation shall impose conditions or
5 restrictions on the low-income housing tax credit loan
6 including:

7 (1) A requirement providing for acceleration and
8 repayment, on any no interest loan under this section
9 so as to assure that the building with respect to
10 which such loan is made remains a qualified low-income
11 building under Section 42 of the Internal Revenue Code
12 or Section 1602 of the American Recovery and
13 Reinvestment Act of 2009, Public Law 111-5. Any such
14 repayment shall be payable to the housing finance
15 revolving fund;

16 (2) The same limitations on rent, income, and use
17 restrictions on such buildings as an allocation of
18 housing credit dollar amount allocated under section
19 42 of the Internal Revenue Code; and

20 (3) The payment of reasonable fees for the corporation to
21 perform or cause to be performed asset management
22 functions to ensure compliance with Section 42 of the



1 Internal Revenue Code and the long-term viability of
2 buildings funded by any no interest loan under this
3 section.

4 (d) The corporation shall perform asset management
5 functions to ensure compliance with Section 42 of the Internal
6 Revenue Code or Section 1602 of the American Recovery and
7 Reinvestment Act of 2009, and the long-term viability of
8 buildings funded by a no interest loan under this section.

9 (e) The corporation may collect reasonable fees from the
10 owner of a qualified low-income building to cover expenses
11 associated with the performance of its duties under this section
12 and may retain an agent or other private contractor to satisfy
13 the requirements of this section.

14 (f) If the owner is not in default, the corporation shall
15 contribute the no interest loan to the owner of the qualified
16 low-income building after thirty years."

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

19 "**§235-110.8 Low-income housing tax credit.** (a) Section
20 42 (with respect to low-income housing credit) of the Internal
21 Revenue Code shall be operative for the purposes of this chapter
22 as provided in this section. A qualified low-income building



1 that has been awarded a subaward under section 1602 of the
2 American Recovery and Reinvestment Act of 2009, Public Law 111-
3 5, shall also be eligible for the credit provided in this
4 section.

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

15 (c) The amount of the low-income housing tax credit that
16 may be claimed by a taxpayer as provided in subsection (b) shall
17 be fifty per cent of the applicable percentage of the qualified
18 basis of each building located in Hawaii. The applicable
19 percentage shall be calculated as provided in [~~section~~] Section
20 42(b) of the Internal Revenue Code.

21 (d) For the purposes of this section, the determination
22 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 and
- 11 (5) Application of at-risk rules shall be made under
- 12 section 42(k);
- 13 of the Internal Revenue Code.
- 14 (e) As provided in section 42(e), rehabilitation
- 15 expenditures shall be treated as a separate new building and
- 16 their treatment under this section shall be the same as in
- 17 section 42(e). The definitions and special rules relating to
- 18 credit period in section 42(f) and the definitions and special
- 19 rules in section 42(i) shall be operative for the purposes of
- 20 this section.
- 21 (f) The state housing credit ceiling under section 42(h)
- 22 shall be zero for the calendar year immediately following the



1 expiration of the federal low-income housing tax credit program
2 and for any calendar year thereafter, except for the carryover
3 of any credit ceiling amount for certain projects in progress
4 which, at the time of the federal expiration, meet the
5 requirements of section 42.

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

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



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

4 (h) In lieu of the credit awarded under this section to a
5 qualified low-income building that has been awarded federal
6 credits which are subject to the state housing credit ceiling
7 under Section 42(h)(3)(C) of the Internal Revenue Code or a
8 subaward under Section 1602 of the American Recovery and
9 Reinvestment Act of 2009, Public Law 111-5, the owner of the
10 qualified low-income building may make a request to the Hawaii
11 housing finance and development corporation for a loan under
12 section 201H- . If the owner elects to receive the loan
13 pursuant to section 201H- , the qualified low-income
14 building shall not be eligible for the credit under this
15 section.

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

18 SECTION 3. The director of finance is authorized to issue
19 general obligation bonds in the sum of \$ or so much
20 thereof as may be necessary and the same sum or so much thereof
21 as may be necessary is appropriated for fiscal year 2009-2010



1 for low-income housing tax credit loans made pursuant to section
2 201H-____.

3 SECTION 4. The appropriation made for the low-income
4 housing tax credit loans authorized by this Act shall not lapse
5 at the end of the fiscal year for which the appropriation is
6 made; provided that all moneys from the appropriation
7 unencumbered as of June 30, 2011, shall lapse as of that date.

8 SECTION 5. The sum appropriated may be expended by the
9 Hawaii housing finance and development corporation for the
10 purpose of making low-income housing tax credit loans.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on January 1, 2110,
14 and shall apply to qualified low-income buildings placed in
15 service after December 31, 2009.



S.B. NO. 1118
S.D. 2
H.D. 1

Report Title:

Low-Income Housing; Tax Credit

Description:

Establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits administered by the Hawaii Housing Finance and Development Corporation.
Authorizes issuance of GO bonds to fund loans. (SB1118 HD1)

