

JAN 22 2010

A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

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

1 SECTION 1. The legislature finds that the need for low-
2 income housing in the State has reached its peak and that the
3 construction industry, which is one of the primary driving
4 forces in the State's economy, is in dire need of alternative
5 financing mechanisms that would enable it to sustain and
6 complete low-income housing projects. The legislature finds
7 that the idea of taxpayers foregoing certain state tax credits
8 in exchange for an interest-free loan would provide an optimal
9 solution for the affordable housing crisis in the State and
10 would also help get the State's economy back on its feet by
11 providing local employment opportunities to those in the
12 construction industry.

13 The purpose of this Act is to establish a low-income
14 housing tax credit loan program that would be administered by
15 the Hawaii housing finance and development corporation to allow
16 owners of qualified low-income buildings to receive a no-
17 interest loan from the State in lieu of claiming the low-income
18 housing tax credit.



1 SECTION 2. 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 tax credits which are subject to the
8 state housing tax credit ceiling under section 42(h)(3)(C) of
9 the Internal Revenue Code, federal tax credits which are
10 allocated pursuant to section 42(h)(4) of the Internal Revenue
11 Code, or a subaward under section 1602 of the American Recovery
12 and Reinvestment Act of 2009, Public Law 111-5. The loan shall
13 be in an amount equal to per cent of the cash value of
14 the amount of the low-income housing tax credit determined under
15 section 235-110.8 for each taxable year in the ten-year credit
16 period discounted to present day value and capitalized at the
17 rate of interest on the taxable general obligation bonds used to
18 fund the loan.

19 (b) A qualified low-income building for which the owner is
20 provided a low-income housing tax credit loan under this section
21 shall not be eligible for the state income tax credit under
22 section 235-110.8.



- 1 (c) The corporation shall impose conditions or
2 restrictions on the low-income housing tax credit loan
3 including:
- 4 (1) A requirement providing for acceleration and repayment
5 on any no-interest loan under this section to assure
6 that the building for which the loan is made remains a
7 qualified low-income building under section 42 of the
8 Internal Revenue Code or section 1602 of the American
9 Recovery and Reinvestment Act of 2009, Public Law
10 111-5. Any repayment shall be payable to the housing
11 finance revolving fund;
- 12 (2) The same limitations on rent, income, and use as under
13 an allocation of a housing tax credit dollar amount
14 allocated under section 42 of the Internal Revenue
15 Code; and
- 16 (3) The payment of reasonable fees for the corporation to
17 perform or cause to be performed asset management
18 functions to ensure compliance with section 42 of the
19 Internal Revenue Code and the long-term viability of
20 buildings funded by any no-interest loan under this
21 section.



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

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

11 (f) If the owner is not in default, the corporation shall
12 forgive the no-interest loan to the owner of the qualified low-
13 income building after thirty years."

14 SECTION 3. Section 235-110.8, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§235-110.8 Low-income housing tax credit.** (a) Section
17 42 (with respect to low-income housing credit) of the Internal
18 Revenue Code shall be operative for the purposes of this chapter
19 as provided in this section. A qualified low-income building
20 that has been awarded a subaward under section 1602 of the
21 American Recovery and Reinvestment Act of 2009, Public Law



1 111-5, shall also be eligible for the credit provided in this
2 section.

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

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

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

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



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

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

13 expenditures shall be treated as a separate new building and

14 their treatment under this section shall be the same as in

15 section 42(e). The definitions and special rules relating to

16 credit period in section 42(f) and the definitions and special

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

18 this section.

19 (f) The state housing credit ceiling under section 42(h)

20 shall be zero for the calendar year immediately following the

21 expiration of the federal low-income housing tax credit program

22 and for any calendar year thereafter, except for the carryover



1 of any credit ceiling amount for certain projects in progress
2 which, at the time of the federal expiration, meet the
3 requirements of section 42.

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

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

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



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

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

14 SECTION 4. The director of finance is authorized to issue
15 general obligation bonds in the sum of \$ or so much
16 thereof as may be necessary and the same sum or so much thereof
17 as may be necessary is appropriated for fiscal year 2010-2011
18 for the purpose of funding low-income housing tax credit loans
19 made pursuant to section 201H- , Hawaii Revised Statutes.

20 SECTION 5. The appropriation made for the low-income
21 housing tax credit loans authorized by this Act shall not lapse
22 at the end of the fiscal biennium for which the appropriation is



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1 made; provided that all moneys from the appropriation
2 unencumbered as of June 30, 2012, shall lapse as of that date.

3 SECTION 6. The sum appropriated shall be expended by the
4 Hawaii housing finance and development corporation for the
5 purposes of this Act.

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2010.

9

INTRODUCED BY:

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Report Title:

Low-Income Housing Tax Credit Loans; GO Bonds

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 general obligation bonds to fund loans.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

