
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. The purpose of this Act is to address state
2 low-income housing tax credits.

3 Part I of this Act reduces the period over which credits
4 may be claimed from ten years to five years. The legislature
5 finds that the reduction should make the credits more valuable
6 to investors.

7 Part II of this Act addresses the election of a federal
8 grant in lieu of a portion of the state tax credit allocation
9 for 2009, as authorized by the American Recovery and
10 Reinvestment Act of 2009.

11 PART I

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

14 "§235-110.8 Low-income housing tax credit. (a) Except
15 for Section 42(b) of the Internal Revenue Code, which shall not
16 be operative for purposes of this chapter, Section 42 (with
17 respect to the low-income housing credit) of the Internal



1 Revenue Code shall be operative for ~~the~~ purposes of this
2 chapter as provided in this section.

3 (b) Each taxpayer subject to the tax imposed by this
4 chapter, who has filed ~~[t]a[t]~~ 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]~~ 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.] equal to the amount of the federal~~
19 low-income housing tax credit that the taxpayer claimed or could
20 have claimed pursuant to Section 42 of the Internal Revenue Code
21 for the same taxable year with respect to each qualified low-
22 income building located in Hawaii; provided that, for purposes



1 of subsection (b), the taxpayer may claim a low-income housing
2 tax credit only with respect to the amount of federal low-income
3 housing tax credit claimed for the first five years of the
4 credit period for each respective qualified low-income building,
5 as defined in Section 42(f)(1) of the Internal Revenue Code that
6 is located in Hawaii; and provided further that the amount of
7 the low-income housing tax credit claimed by a taxpayer shall be
8 computed without regard to any federal low-income housing tax
9 credit that is carried forward from a prior taxable year.

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

- 12 (1) Qualified basis and qualified low-income building
13 shall be made under section 42(c);
- 14 (2) Eligible basis shall be made under section 42(d);
- 15 (3) Qualified low-income housing project shall be made
16 under section 42(g);
- 17 (4) Recapture of credit shall be made under section 42(j),
18 except that the tax for the taxable year shall be
19 increased under section 42(j)(1) only with respect to
20 credits that were used to reduce state income taxes;
- 21 (5) Application of at-risk rules shall be made under
22 section 42(k);



1 of the Internal Revenue Code.

2 (e) As provided in section 42(e), rehabilitation
3 expenditures shall be treated as separate new building and their
4 treatment under this section shall be the same as in section
5 42(e). [~~The definitions and special rules relating to credit~~
6 ~~period in section 42(f) and the]~~ The definitions and special
7 rules in section 42(i) shall be operative for the purposes of
8 this section.

9 (f) The definitions and special rules relating to credit
10 periods in section 42(f) shall be operative for the purposes of
11 this section; except that Section 42(f)(1) of the Internal
12 Revenue Code shall be modified as follows: the term "credit
13 period" means, with respect to any building, the period of five
14 taxable years beginning with:

15 (1) The taxable year in which the building is placed in
16 service; or

17 (2) At the election of the taxpayer, the succeeding
18 taxable year;

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



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

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

13 A tax credit under this section which exceeds the
14 taxpayer's income tax liability may be used as a credit against
15 the 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



1 housing project under [~~section~~] Section 42 of the Internal
2 Revenue Code.

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

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

8 PART II

9 SECTION 3. (a) Under Section 1602(b) of the American
10 Recovery and Reinvestment Act of 2009, the State of Hawaii may
11 elect to receive a low-income housing grant in lieu of the low-
12 income housing tax credit allocation for 2009. The maximum low-
13 income housing grant election amount for the State may not
14 exceed eighty-five per cent of the product of ten and the sum of
15 the following:

- 16 (1) The State's unused housing credit ceiling for 2008;
17 (2) Any returns to the State during 2009 of credit
18 allocations previously made by the State;
19 (3) Forty per cent of the State's 2009 credit allocation;
20 and
21 (4) Forty per cent of the State's share of the national
22 pool allocated in 2009, if any.



1 (b) If the grant is transmitted to the State, rather than
2 held by the United States Secretary of the Treasury in a federal
3 account, the grant shall be deposited into the housing finance
4 revolving fund.

5 (c) The Hawaii housing finance and development corporation
6 shall serve as the "state housing credit agency" for the purpose
7 of making subawards of the grant in accordance with the American
8 Recovery and Reinvestment Act of 2009. The corporation shall
9 comply with all applicable provisions of that Act in the
10 administration of the low-income housing grants.

11 SECTION 4. If applicable pursuant to section 3(b) there is
12 appropriated out of the housing finance revolving fund the low-
13 income housing grant received pursuant to section 3 for making
14 subawards in fiscal year 2009-2010 and fiscal year 2010-2011 for
15 the purposes authorized under Section 1602 of the American
16 Recovery and Reinvestment Act of 2009.

17 If applicable, the appropriation shall be expended by the
18 Hawaii housing finance and development corporation for the
19 purpose of this part.

20 SECTION 5. A qualified low-income building that has been
21 awarded a subaward under Section 1602 of the American Recovery
22 and Reinvestment Act of 2009 shall also be eligible for the low-



1 income housing tax credit provided in section 235-110.8, Hawaii
2 Revised Statutes.

3 PART III

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

6 SECTION 7. This Act shall take effect on January 1, 2010,
7 and apply to qualified low-income buildings placed in service
8 after December 31, 2009; except that part II shall take effect
9 upon its approval.



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. Authorizes the election of the maximum amount of grant in lieu of tax credits authorized under the American Recovery and Reinvestment Act of 2009. Authorizes the state low-income housing tax credit to be taken with federal low-income housing tax credits as authorized under the American Recovery and Reinvestment Act of 2009. (HB1043 HD1)

