
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 [+]~~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~~] 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
22 low-income building located in Hawaii; provided that, for

1 purposes of subsection (b), the taxpayer may claim a low-income
2 housing tax credit only with respect to the amount of the
3 federal low-income housing tax credit claimed for the first five
4 years of the credit period (as defined in Section 42(f)(1) of
5 the Internal Revenue Code, without regard to section
6 235-110.8(f)) for each respective qualified low-income building,
7 as defined in Section 42(f)(1) of the Internal Revenue Code that
8 is located in Hawaii; provided further that the amount of the
9 low-income housing tax credit claimed by a taxpayer shall be
10 computed without regard to any federal low-income housing tax
11 credit that is carried forward from a prior taxable year.

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

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

1 (5) Application of at-risk rules shall be made under
2 section 42(k);
3 of the Internal Revenue Code.

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

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

17 (1) The taxable year in which the building is placed in
18 service; or

19 (2) At the election of the taxpayer, the succeeding
20 taxable year;

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

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

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

16 A tax credit under this section which exceeds the
17 taxpayer's income tax liability may be used as a credit against
18 the taxpayer's income tax liability in subsequent years until
19 exhausted. All claims for a tax credit under this section must
20 be filed on or before the end of the twelfth month following the
21 close of the taxable year for which the credit may be claimed.

22 Failure to properly and timely claim the credit shall constitute

1 a waiver of the right to claim the credit. A taxpayer may claim
2 a credit under this section only if the building or project is a
3 qualified low-income housing building or a qualified low-income
4 housing project under [~~section~~] Section 42 of the Internal
5 Revenue Code.

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

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

11 PART II

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

- 19 (1) The State's unused housing credit ceiling for 2008;
20 (2) Any returns to the State during 2009 of credit
21 allocations previously made by the State;

1 (3) Forty per cent of the State's 2009 credit allocation;
2 and

3 (4) Forty per cent of the State's share of the national
4 pool allocated in 2009, if any.

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

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

15 SECTION 4. If applicable pursuant to section 3(b) there is
16 appropriated out of the housing finance revolving fund the
17 low-income housing grant received pursuant to section 3 for
18 making subawards in fiscal year 2009-2010 and fiscal year
19 2010-2011 for the purposes authorized under Section 1602 of the
20 American Recovery and Reinvestment Act of 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. 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. Effective 7/1/2030.

(SD1)