
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 seventy per cent of the cash
12 value of the amount of the low-income housing credit that would
13 otherwise have been claimable with respect to the qualified low-
14 income building under section 235-110.8, for each taxable year
15 in the ten-year credit period discounted to present day value
16 and capitalized at the rate of interest on the taxable general
17 obligation bonds 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 and may be enforced by means of liens
16 or such other methods as the corporation deems
17 appropriate;

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



1 (3) The payment of reasonable fees for the corporation to
2 perform or cause to be performed asset management
3 functions to ensure compliance with Section 42 of the
4 Internal Revenue Code and the long-term viability of
5 buildings funded by any no interest loan under this
6 section.

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

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

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

20 (g) For purposes of this section "qualified low-income
21 building" shall have the same meaning as used in Section
22 42(c)(2) of the Internal Revenue Code."



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

3 "§235-110.8 Low-income housing tax credit. (a) Section
4 42 (with respect to low-income housing credit) of the Internal
5 Revenue Code shall be operative for the purposes of this chapter
6 as provided in this section. A qualified low-income building
7 that has been awarded a subaward under Section 1602 of the
8 American Recovery and Reinvestment Act of 2009, Public Law 111-
9 5, shall also be eligible for the credit provided in this
10 section.

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

21 (c) The amount of the low-income housing tax credit that
22 may be claimed by a taxpayer as provided in subsection (b) shall



1 be fifty per cent of the applicable percentage of the qualified
2 basis of each building located in Hawaii. The applicable
3 percentage shall be calculated as provided in [~~section~~] Section
4 42(b) of the Internal Revenue Code. If a qualified low-income
5 building has been awarded a subaward under Section 1602 of the
6 American Recovery and Reinvestment Act of 2009, Public Law 111-
7 5, for purposes of subsection (b), the amount of the low-income
8 housing tax credit shall be equal to fifty per cent of the
9 amount of the federal low-income housing tax credits that would
10 have been allocated to the qualified low-income building
11 pursuant to Section 42(b) of the Internal Revenue Code by the
12 Hawaii housing finance and development corporation had a
13 subaward not been awarded with respect to the qualified low-
14 income building.

15 (d) For the purposes of this section, the determination
16 of:

- 17 (1) Qualified basis and qualified low-income building
18 shall be made under [~~section~~] Section 42(c);
- 19 (2) Eligible basis shall be made under [~~section~~] Section
20 42(d);
- 21 (3) Qualified low-income housing project shall be made
22 under [~~section~~] Section 42(g);



1 (4) Recapture of credit shall be made under [~~section~~]
2 Section 42(j), except that the tax for the taxable
3 year shall be increased under [~~section~~] Section
4 42(j)(1) only with respect to credits that were used
5 to reduce state income taxes; and

6 (5) Application of at-risk rules shall be made under
7 [~~section~~] Section 42(k);
8 of the Internal Revenue Code.

9 (e) As provided in [~~section~~] Section 42(e), rehabilitation
10 expenditures shall be treated as a separate new building and
11 their treatment under this section shall be the same as in
12 [~~section~~] Section 42(e). The definitions and special rules
13 relating to credit period in [~~section~~] Section 42(f) and the
14 definitions and special rules in [~~section~~] Section 42(i) shall
15 be operative for the purposes of this section.

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



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

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

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

21 (h) In lieu of the credit awarded under this section to a
22 qualified low-income building that has been awarded federal



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

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

13 SECTION 3. The director of finance is authorized to issue
14 general obligation bonds in the sum of \$ _____ or so much
15 thereof as may be necessary and the same sum or so much thereof
16 as may be necessary is appropriated for fiscal year 2009-2010
17 for low-income housing tax credit loans made pursuant to section
18 201H-_____ .

19 SECTION 4. The appropriation made for the low-income
20 housing tax credit loans authorized by this Act shall not lapse
21 at the end of the fiscal year for which the appropriation is



1 made; provided that all moneys from the appropriation
2 unencumbered as of June 30, 2011, shall lapse as of that date.

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

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

8 SECTION 7. This Act shall take effect on July 1, 2020, and
9 shall apply to qualified low-income buildings placed in service
10 after December 31, 2009.



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 HD2)

