

JAN 28 2009

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The purpose of this Act is to increase
2 incentives for the development of affordable housing in Hawaii.

3 **PART I**

4 SECTION 2. The legislature finds that self-help housing
5 programs offer low- and moderate-income families an opportunity
6 to own their own homes by using "sweat equity" to build their
7 homes. Families who have built their own homes show greatly
8 improved financial stability, the children do better in school,
9 and the families rarely move, which often provides increased
10 employment opportunities. Self-help housing is a hand up from
11 circumstances that frequently lead to homelessness, and a number
12 of self-help housing homeowners in Hawaii have been homeless
13 prior to building their homes.

14 The purpose of this part is to establish a dedicated source
15 of funding for self-help housing by:

- 16 (1) Establishing a self-help housing trust fund with
17 income from the conveyance tax; and



1 (2) Increasing the amount of conveyance tax paid per \$100
2 of value for properties with a value greater than
3 \$1,000,000.

4 SECTION 3. Chapter 201H, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§201H- Self-help housing trust fund. (a) There is
8 established the self-help housing trust fund to be administered
9 by the corporation.

10 (b) An amount from the fund, to be set by the corporation
11 and authorized by the legislature, may be used for
12 administrative expenses incurred by the corporation in
13 administering the fund; provided that fund moneys may not be
14 used to finance day-to-day administrative expenses of projects
15 allotted fund moneys.

16 (c) The following may be deposited into the fund:
17 appropriations made by the legislature, private contributions,
18 repayment of loans, interest, other returns, and moneys from
19 other sources.

20 (d) The fund shall be used to provide loans or grants for
21 the development, pre-development, construction, acquisition,
22 preservation, and substantial rehabilitation of self-help



1 housing units. Permitted uses of moneys from the fund may
2 include but are not limited to planning, design, land
3 acquisition, costs of options, agreements of sale, downpayments,
4 equity financing, capacity building of nonprofit housing
5 developers, and other housing development services or activities
6 as provided in rules adopted by the corporation pursuant to
7 chapter 91. The rules may provide for a means of recapturing
8 loans or grants made from the fund if a self-help housing
9 project financed under the fund is refinanced or sold at a later
10 date. The rules may also provide that moneys from the fund
11 shall be leveraged with other financial resources to the extent
12 possible.

13 (e) The corporation may provide loans and grants under
14 this section; provided that the corporation shall establish
15 loan-to-value ratios to protect the fund from inordinate risk
16 and under no circumstances shall the rules permit the loan-to-
17 value ratio to exceed one hundred per cent; and provided further
18 that the underwriting guidelines include a debt-coverage ratio
19 of not less than 1 to 1.

20 (f) The corporation shall submit an annual report to the
21 legislature no later than twenty days prior to the convening of
22 each regular session describing the projects funded and its



1 efforts to develop self-help housing projects, including any
2 assistance or other partnership efforts with private or other
3 governmental self-help housing organizations.

4 (g) For the purposes of this section "self-help housing"
5 means housing in which prospective homeowners have contributed
6 labor, materials, or real property."

7 SECTION 4. Section 247-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§247-2 Basis and rate of tax.** The tax imposed by section
10 247-1 shall be based on the actual and full consideration
11 (whether cash or otherwise, including any promise, act,
12 forbearance, property interest, value, gain, advantage, benefit,
13 or profit), paid or to be paid for all transfers or conveyance
14 of realty or any interest therein, that shall include any liens
15 or encumbrances thereon at the time of sale, lease, sublease,
16 assignment, transfer, or conveyance, and shall be at the
17 following rates:

18 (1) Except as provided in paragraph (2):

19 (A) Ten cents per \$100 for properties with a value of
20 less than \$600,000;



1 (B) Twenty cents per \$100 for properties with a value
2 of at least \$600,000, but less than \$1,000,000;
3 [and]

4 (C) [~~Thirty~~] Fifty cents per \$100 for properties with
5 a value of at least \$1,000,000 [~~or greater; and~~]
6 but less than \$2,000,000;

7 (D) \$1 per \$100 for properties with a value of at
8 least \$2,000,000, but less than \$4,000,000;

9 (E) \$2 per \$100 for properties with a value of at
10 least \$4,000,000, but less than \$6,000,000;

11 (F) \$3 per \$100 for properties with a value of at
12 least \$6,000,000, but less than \$10,000,000; and

13 (G) \$4 per \$100 for properties with a value of
14 \$10,000,000 or greater; and

15 (2) For the sale of a condominium or single family
16 residence for which the purchaser is ineligible for a
17 county homeowner's exemption on property tax:

18 (A) Fifteen cents per \$100 for properties with a
19 value of less than \$600,000;

20 (B) Twenty-five cents per \$100 for properties with a
21 value of at least \$600,000, but less than
22 \$1,000,000; and



1 (C) Thirty-five cents per \$100 for properties with a
2 value of \$1,000,000 or greater,
3 of such actual and full consideration; provided that in the case
4 of a lease or sublease, this chapter shall apply only to a lease
5 or sublease whose full unexpired term is for a period of five
6 years or more, and in those cases, including (where appropriate)
7 those cases where the lease has been extended or amended, the
8 tax in this chapter shall be based on the cash value of the
9 lease rentals discounted to present day value and capitalized at
10 the rate of six per cent, plus the actual and full consideration
11 paid or to be paid for any and all improvements, if any, that
12 shall include on-site as well as off-site improvements,
13 applicable to the leased premises; and provided further that the
14 tax imposed for each transaction shall be not less than \$1."

15 SECTION 5. Section 247-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§247-7 Disposition of taxes.** All taxes collected under
18 this chapter shall be paid into the state treasury to the credit
19 of the general fund of the State, to be used and expended for
20 the purposes for which the general fund was created and exists
21 by law; provided that of the taxes collected each fiscal year:



- 1 (1) Ten per cent shall be paid into the land conservation
2 fund established pursuant to section 173A-5;
- 3 (2) [~~Thirty~~] Forty-five per cent shall be paid into the
4 rental housing trust fund established by section
5 201H-202; [~~and~~]
- 6 (3) [~~Twenty-five~~] Twenty per cent shall be paid into the
7 natural area reserve fund established by section 195-
8 9; provided that the funds paid into the natural area
9 reserve fund shall be annually disbursed by the
10 department of land and natural resources in the
11 following priority:
- 12 (A) To natural area partnership and forest
13 stewardship programs after joint consultation
14 with the forest stewardship committee and the
15 natural area reserves system commission;
- 16 (B) Projects undertaken in accordance with watershed
17 management plans pursuant to section 171-58 or
18 watershed management plans negotiated with
19 private landowners, and management of the natural
20 area reserves system pursuant to section 195-3;
21 and



1 (C) The youth conservation corps established under
2 chapter 193 [-]; and
3 (4) Five per cent shall be paid into the self-help housing
4 trust fund established by section 201H- ."

5 PART II

6 SECTION 6. The purpose of this part is to increase the
7 value of state low-income housing tax credits by shortening the
8 period over which the credits can be taken from ten years to
9 five years.

10 SECTION 7. Section 235-110.8, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§235-110.8 Low-income housing tax credit. (a) [~~Section~~]
13 Except for section 42(b) of the Internal Revenue Code, which
14 shall not be operative for purposes of this chapter, section 42
15 (with respect to the low-income housing credit) of the Internal
16 Revenue Code shall be operative for the purposes of this chapter
17 as provided in this section.

18 (b) Each taxpayer subject to the tax imposed by this
19 chapter, who has filed [+]a[+] net income tax return for a
20 taxable year may claim a low-income housing tax credit against
21 the taxpayer's net income tax liability. The amount of the
22 credit shall be deductible from the taxpayer's net income tax



1 liability, if any, imposed by this chapter for the taxable year
2 in which the credit is properly claimed on a timely basis. A
3 credit under this section may be claimed whether or not the
4 taxpayer claims a federal low-income housing tax credit pursuant
5 to section 42 of the Internal Revenue Code.

6 (c) The amount of the low-income housing tax credit that
7 may be claimed by a taxpayer as provided in subsection (b) shall
8 be [fifty per cent of the applicable percentage of the qualified
9 basis of each building located in Hawaii. The applicable
10 percentage shall be calculated as provided in section 42(b) of
11 the Internal Revenue Code.] equal to the amount of the federal
12 low-income housing tax credit that the taxpayer claimed or could
13 have claimed pursuant to section 42 of the Internal Revenue Code
14 for the same taxable year with respect to each qualified low-
15 income building located in Hawaii; provided that, for purposes
16 of subsection (b), the taxpayer may claim a low-income housing
17 tax credit only with respect to the amount of federal low-income
18 housing tax credit claimed for the first five years of the
19 credit period for each respective qualified low-income building,
20 as defined in section 42(f)(1) of the Internal Revenue Code that
21 is located in Hawaii; provided further that the amount of the
22 low-income housing tax credit claimed by a taxpayer shall be



1 computed without regard to any federal low-income housing tax
2 credit that is carried forward from a prior taxable year.

3 (d) For the purposes of this section, the determination
4 of:

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

7 (2) Eligible basis shall be made under section 42(d);

8 (3) Qualified low-income housing project shall be made
9 under section 42(g);

10 (4) Recapture of credit shall be made under section 42(j),
11 except that the tax for the taxable year shall be
12 increased under section 42(j)(1) only with respect to
13 credits that were used to reduce state income taxes;

14 (5) Application of at-risk rules shall be made under
15 section 42(k);

16 of the Internal Revenue Code.

17 (e) As provided in section 42(e), rehabilitation
18 expenditures shall be treated as separate new building and their
19 treatment under this section shall be the same as in section
20 42(e). ~~The [definitions and special rules relating to credit~~
21 ~~period in section 42(f) and the]~~ definitions and special rules



1 in section 42(i) shall be operative for the purposes of this
2 section.

3 (f) The definitions and special rules relating to credit
4 periods in section 42(f) shall be operative for the purposes of
5 this section; except that section 42(f)(1) of the Internal
6 Revenue Code shall be modified as follows: the term "credit
7 period" means, with respect to any building, the period of five
8 taxable years beginning with:

9 (1) The taxable year in which the building is placed in
10 service; or

11 (2) At the election of the taxpayer, the succeeding
12 taxable year;

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

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



1 SECTION 8. The purpose of this part is to facilitate the
2 collection of the shared appreciation equity lien, deferred
3 sales price lien, and excess proceeds in lieu of any buyback,
4 imposed by the State on the sale of affordable housing
5 properties that received assistance from the Hawaii housing
6 finance and development corporation which are undergoing
7 foreclosure.

8 SECTION 9. Section 201H-47, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) The following restrictions shall apply to the
12 transfer of real property developed and sold under this chapter,
13 whether in fee simple or leasehold:

14 (1) For a period of ten years after the purchase, whether
15 by lease, assignment of lease, deed, or agreement of
16 sale, if the purchaser wishes to transfer title to the
17 real property, the corporation shall have the first
18 option to purchase the real property at a price that
19 shall not exceed the sum of:

20 (A) The original cost to the purchaser, as defined in
21 rules adopted by the corporation;



- 1 (B) The cost of any improvements added by the
2 purchaser, as defined in rules adopted by the
3 corporation; and
- 4 (C) Simple interest on the original cost and capital
5 improvements to the purchaser at the rate of one
6 per cent a year;
- 7 (2) The corporation may purchase the real property either:
- 8 (A) By conveyance free and clear of all mortgages and
9 liens; or
- 10 (B) By conveyance subject to existing mortgages and
11 liens.
- 12 If the real property is conveyed in the manner
13 provided in subparagraph (A), it shall be conveyed to
14 the corporation only after all mortgages and liens are
15 released. If the real property is conveyed in the
16 manner provided in subparagraph (B), the corporation
17 shall acquire the property subject to any first
18 mortgage created for the purpose of securing the
19 payment of a loan of funds expended solely for the
20 purchase of the real property by the seller; and any
21 mortgage or lien created for any other purpose



1 provided that the corporation has previously consented
2 to it in writing.

3 The corporation's interest created by this
4 ~~[paragraph]~~ section shall constitute a statutory lien
5 on the real property and shall be superior to any
6 other mortgage or lien except for:

7 (i) Any first mortgage created for the purpose
8 of securing the payment of a loan of funds
9 expended solely for the purchase of the real
10 property by the seller;

11 (ii) Any mortgage insured or held by a federal
12 housing agency; and

13 (iii) Any mortgage or lien created for any other
14 purpose; provided that the corporation has
15 previously consented to it in writing.

16 The amount paid by the corporation to the seller shall
17 be the difference, if any, between the purchase price
18 determined by paragraph (1) (A) to (C), and the total
19 of the outstanding principal balances of the mortgages
20 and liens assumed by the corporation;

21 (3) A purchaser may refinance real property developed and
22 sold under this chapter provided that the purchaser



1 shall not refinance the real property within ten years
2 from the date of purchase for an amount in excess of
3 the purchase price as determined by paragraph (1) (A)
4 to (C); provided further that the purchaser shall
5 obtain the corporation's written consent while any
6 restriction on transfer established in this chapter
7 remains applicable;

8 (4) After the end of the tenth year from the date of
9 initial purchase or execution of an agreement of sale,
10 the purchaser may sell the real property and sell or
11 assign the property free from any price restrictions;
12 provided that the purchaser shall be required to pay
13 to the corporation the sum of:

14 (A) The balance of any mortgage note, agreement of
15 sale, or other amount owing to the corporation;

16 (B) Any subsidy or deferred sales price made by the
17 corporation in the acquisition, development,
18 construction, and sale of the real property, and
19 any other amount expended by the corporation not
20 counted as costs under section 201H-45 but
21 charged to the real property by good accounting
22 practice as determined by the corporation whose



1 books shall be prima facie evidence of the
2 correctness of the costs;

3 (C) Interest on the subsidy or deferred sales price,
4 if applicable, and any other amount expended at
5 the rate of seven per cent a year computed as to
6 the subsidy or deferred sales price, if
7 applicable, from the date of purchase or
8 execution of the agreement of sale, and as to any
9 amount expended, from the date of expenditure;
10 provided that the computed interest shall not
11 extend beyond thirty years from the date of
12 purchase or execution of the agreement of sale of
13 the real property. If any proposed sale or
14 transfer will not generate an amount sufficient
15 to pay the corporation the sum as computed under
16 this paragraph, the corporation shall have the
17 first option to purchase the real property at a
18 price that shall not exceed the sum as computed
19 under paragraphs (1) and (2); and

20 (D) The corporation's share of appreciation in the
21 real property as determined under rules adopted
22 pursuant to chapter 91, when applicable; [and]



1 (5) Notwithstanding any provision above to the contrary,
2 pursuant to rules adopted by the corporation, the
3 subsidy or deferred sales price described in paragraph
4 (4) (B) and any interest accrued pursuant to paragraph
5 (4) (C) may be paid, in part or in full, at any
6 time ~~[]~~; and

7 (6) Notwithstanding any provision above to the contrary,
8 the corporation's share of appreciation in the real
9 property described in paragraph (4) (D):

10 (A) Shall apply when the sale price of the real
11 property that is developed and initially sold
12 under this chapter is less than the then-current,
13 unencumbered, fair market value of the real
14 property as determined by a real property
15 appraisal obtained prior to the closing of the
16 sale;

17 (B) Is a restriction that runs with the land until it
18 is paid in full and released by the corporation,
19 or extinguished pursuant to subsection (e); and

20 (C) May be paid, in part or in full, at any time
21 after recordation of the sale."

22 2. By amending subsection (c) to read:



1 "(c) The corporation may waive the restrictions prescribed
2 in subsection (a) or (b) if:

3 (1) The purchaser wishes to transfer title to the real
4 property by devise or through the laws of descent to a
5 family member who would otherwise qualify under rules
6 established by the corporation;

7 (2) The sale or transfer of the real property would be at
8 a price and upon terms that preserve the intent of
9 this section without the necessity of the State
10 repurchasing the real property; provided that, in this
11 case, the purchaser shall sell the [~~unit or lot~~] real
12 property and sell or assign the real property to a
13 person who is a "qualified resident" as defined in
14 section 201H-32; and provided further that the
15 purchaser shall pay to the corporation its share of
16 appreciation in the [~~unit~~] real property as determined
17 in rules adopted pursuant to chapter 91, when
18 applicable; or

19 (3) The sale or transfer is of real property subject to a
20 sustainable affordable lease as defined in section
21 516-1."

22 3. By amending subsections (e) and (f) to read:



1 "(e) The restrictions prescribed in this section and
2 sections 201H-49 to 201H-51 shall be automatically extinguished
3 and shall not attach in subsequent transfers of title when a
4 mortgage holder or other party becomes the owner of the real
5 property pursuant to a mortgage foreclosure, foreclosure under
6 power of sale, or a conveyance in lieu of foreclosure after a
7 foreclosure action is commenced; provided that the mortgage is
8 the initial purchase money mortgage, or that the corporation
9 consented to, and agreed to subordinate the restrictions on the
10 mortgage when originated if the mortgage is not the initial
11 purchase money mortgage; or when a mortgage is assigned to a
12 federal housing agency. Any law to the contrary
13 notwithstanding, a mortgagee under a mortgage covering real
14 property or leasehold interest encumbered by the first option to
15 purchase in favor of the corporation, prior to commencing
16 mortgage foreclosure proceedings, shall notify the corporation
17 in writing of:

18 (1) Any default of the mortgagor under the mortgage within
19 ninety days after the occurrence of the default; and

20 (2) Any intention of the mortgagee to foreclose the
21 mortgage under chapter 667; forty-five days prior to
22 commencing mortgage foreclosure proceedings;



1 provided that the mortgagee's failure to provide written notice
2 to the corporation shall not affect the mortgage holder's rights
3 under the mortgage. The corporation shall be a party to any
4 foreclosure action, and shall be entitled to its share of
5 appreciation in the real property as determined under this
6 chapter in lien priority when such payment is applicable, and,
7 if foreclosure occurs within the ten-year period after the
8 purchase, the corporation shall also be entitled to all proceeds
9 remaining in excess of all customary and actual costs and
10 expenses of transfer pursuant to default, including liens and
11 encumbrances of record; provided that the person in default
12 shall be entitled to an amount [~~which~~] that shall not exceed the
13 sum of amounts determined pursuant to subsection (a)(1)(B) and
14 (C).

15 (f) The provisions of this section shall be incorporated
16 in any deed, lease, agreement of sale, or any other instrument
17 of conveyance issued by the corporation. In any sale by the
18 corporation of real property for which a subsidy or deferred
19 sales price was made by the corporation, the amount of the
20 subsidy or deferred sales price described in subsection
21 (a)(4)(B), a description of the cost items that constitute the
22 subsidy or deferred sales price, and the conditions of the



1 subsidy or deferred sales price shall be clearly stated at the
2 beginning of the contract document issued by the corporation.
3 In any sale in which the corporation's share of appreciation in
4 real property shall be a restriction, the terms of the shared
5 appreciation equity program shall be clearly stated and included
6 as an exhibit in any deed, lease, agreement of sale, or any
7 other instrument of conveyance."

8 SECTION 10. Section 201H-50, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Restrictions on the use, sale, and transfer of real
11 property shall be made as uniform as possible in application to
12 purchasers of all real property, and restrictions shall be
13 conformed with agreement of the purchaser to reflect change or
14 repeal made by any subsequent legislative act, ordinance, rule,
15 or regulation. Purchasers shall be permitted at their election
16 to sell or transfer real property subject to restrictions in
17 effect at the time of their sale or transfer[-]; provided that
18 the corporation is paid its share of appreciation in the real
19 property as determined by rules adopted pursuant to chapter 91,
20 as applicable."

21 PART IV



1 SECTION 11. The purpose of this part is to assist low and
2 moderate income persons with purchasing a principal residence by
3 providing qualified buyers with a state income tax credit up to
4 or equal to twenty per cent of the annual mortgage interest
5 payment.

6 SECTION 12. Chapter 235, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 **"PART . MORTGAGE CREDIT CERTIFICATES**

10 **§235-A Definitions.** As used in this part:

11 "Certificate credit rate" means the rate of the credit
12 allowable by this part that is specified in the mortgage credit
13 certificate.

14 "Certified indebtedness amount" means the amount of
15 indebtedness that is incurred by the taxpayer to acquire the
16 principal residence of the taxpayer and specified in the
17 mortgage credit certificate.

18 "Mortgage credit certificate" means any certificate that is
19 issued under a qualified mortgage credit certificate program to
20 the taxpayer in connection with the acquisition of the
21 taxpayer's principal residence, specifies the certificate credit



1 rate and the certified indebtedness amount, and is in a form as
2 the director may prescribe.

3 "Principal residence" has the same meaning as used in
4 section 121 of the federal Internal Revenue Code of 1986, as
5 amended.

6 "Qualified mortgage credit certificate program" means any
7 program:

8 (1) Under which the indebtedness certified by mortgage
9 credit certificates meets the following requirements:

10 (A) The residence financed by the indebtedness is a
11 single-family residence in the State that can
12 reasonably be expected to become the principal
13 residence of the mortgagor within a reasonable
14 time after the financing is provided;

15 (B) The mortgagor had no present ownership interest
16 in the mortgagor's principal residence at any
17 time during the three-year period ending on the
18 date that the mortgage is executed;

19 (C) The purchase price of the residence financed by
20 the indebtedness does not exceed , and

21 (D) The income of the mortgagor does not exceed

22 \$;



- 1 (2) Under which no mortgage credit certificate may be
- 2 issued with respect to any residence for which any of
- 3 the financing is provided from the proceeds of a
- 4 qualified mortgage bond or a qualified veterans'
- 5 mortgage bond;
- 6 (3) Except to the extent provided in rules, that is not
- 7 limited to indebtedness incurred from particular
- 8 lenders; and
- 9 (4) Except to the extent provided in rules, which provides
- 10 that a mortgage credit certificate is not
- 11 transferable.

12 **§235-B Allowance of credit.** (a) There shall be allowed

13 as a credit against the tax imposed by this chapter, for the

14 taxable year, an amount equal to the product of:

- 15 (1) The certificate credit rate; and
- 16 (2) The interest paid or accrued by the taxpayer during
- 17 the taxable year on the remaining principal of the
- 18 certified indebtedness amount.

19 (b) If the certificate credit rate exceeds twenty per

20 cent, the amount of the credit allowed to the taxpayer under

21 this section for any taxable year shall not exceed \$2,000.



1 (c) If two or more persons hold interests in any
2 residence, the limitation of subsection (b) shall be allocated
3 among the persons in proportion to their respective interests in
4 the residence.

5 **§235-C Determination of certificate credit rate.** For
6 purposes of this part, the certificate credit rate specified in
7 any mortgage credit certificate shall not be less than ten per
8 cent or more than fifty per cent.

9 **§235-D Aggregate limit on certificate credit rates.** In
10 the case of each qualified mortgage credit certificate program,
11 the sum of the products determined by multiplying the certified
12 indebtedness amount of each mortgage credit certificate issued
13 under the program, by the certificate credit rate with respect
14 to the certificate, shall not exceed the amount authorized by
15 the legislature for that year by adoption of a concurrent
16 resolution.

17 **§235-E Carry forward of unused credit.** (a) If the credit
18 allowable under this part for any taxable year exceeds the
19 applicable tax limit for the taxable year, the excess shall
20 carryover to each of the three succeeding taxable years and,
21 subject to the limitations of subsection (b), shall be added to



1 the credit allowable by this part for the succeeding taxable
2 year.

3 (b) The amount of the unused credit that may be taken into
4 account under this section for any taxable year shall not exceed
5 the amount, if any, by which the applicable tax limit for the
6 taxable year exceeds the sum of:

7 (1) The credit allowable under this part for the taxable
8 year determined without regard to this section; and

9 (2) The amounts that, by reason of this section, are
10 carried to the taxable year and are attributable to
11 taxable years before the unused credit year.

12 **§235-F Indebtedness not treated as certified where certain**
13 **requirements not, in fact, met.** (a) This part shall not apply
14 to any indebtedness if all the requirements of section 235- ,
15 were not, in fact, met with respect to the indebtedness.

16 (b) Except to the extent otherwise provided in rules
17 adopted by the director, the requirements under this part shall
18 be treated as met if there is a certification, under penalty of
19 perjury, that the requirements are met.

20 **§235-G Period for which certificate in effect.** (a)
21 Except as otherwise provided in this part, a mortgage credit



1 certificate shall be treated as in effect with respect to
2 interest attributable to the period:

3 (1) Beginning on the date the certificate is issued; and

4 (2) Ending on the earlier of:

5 (A) The date that is specified in the certificate; or

6 (B) The date on which the residence to which the
7 certificate relates ceases to be the principal
8 residence of the individual to whom the
9 certificate relates.

10 (b) A certificate shall not apply to any indebtedness that
11 is incurred after the close of the second calendar year
12 following the calendar year in which the certificate is issued.

13 **§235-H Interest paid or accrued to related persons.** No
14 credit shall be allowed under this part for any interest paid or
15 accrued to a person who is a related person to the taxpayer,
16 within the meaning of section 144(a)(3)(A) of the federal
17 Internal Revenue Code of 1986, as amended.

18 **§235-I Reporting requirements.** (a) Each person who makes
19 a loan that is a certified indebtedness amount under any
20 mortgage credit certificate shall file a report with the
21 director containing:



- 1 (1) The name, address, and social security account number
- 2 of the individual to which the certificate was issued;
- 3 (2) The certificate's issuer, date of issue, certified
- 4 indebtedness amount, and certificate credit rate; and
- 5 (3) Any other information as the director may require by
- 6 rules.

7 (b) Each person who issues a mortgage credit certificate

8 shall file a report showing the information as the director

9 shall prescribe by rules. Any report shall be filed at a time

10 and in a manner as the director may require by rules.

11 **§235-J Rules.** The director shall adopt rules pursuant to

12 chapter 91 as may be necessary to carry out the purposes of this

13 part, including rules that may require recipients of mortgage

14 credit certificates to pay a reasonable processing fee to defray

15 the expenses incurred in administering the program."

16 SECTION 13. There is appropriated out of the general

17 revenues of the State of Hawaii the sum of \$ or so

18 much thereof as may be necessary for fiscal year 2009-2010 and

19 the same sum or so much thereof as may be necessary for fiscal

20 year 2010-2011 for the mortgage credit certificate program

21 established by this part.



1 The sums appropriated shall be expended by the department
2 of taxation for the purposes of this part.

3 PART V

4 SECTION 14. In codifying the new sections added by section
5 12 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 15. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 16. This Act shall take on July 1, 2009; provided
11 that sections 7 and 12 shall apply to taxable years beginning
12 after December 31, 2008.

13

INTRODUCED BY:

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Will Eyo

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Report Title:

Housing; Affordable Housing; Omnibus

Description:

Increases incentives for the development of affordable housing in Hawaii.

OFFICE OF THE CLERK
HAWAII

