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# 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~~] \$1 per \$100 for properties  
2 with a value of at least \$1,000,000 [~~or greater,~~]  
3 but less than \$2,000,000;
- 4 (D) \$2 per \$100 for properties with a value of at  
5 least \$2,000,000, but less than \$4,000,000;
- 6 (E) \$4 per \$100 for properties with a value of at  
7 least \$4,000,000, but less than \$6,000,000;
- 8 (F) \$6 per \$100 for properties with a value of at  
9 least \$6,000,000, but less than \$10,000,000; and
- 10 (G) \$8 per \$100 for properties with a value of  
11 \$10,000,000 or greater; and
- 12 of such actual and full consideration; provided that in the case  
13 of a lease or sublease, this chapter shall apply only to a lease  
14 or sublease whose full unexpired term is for a period of five  
15 years or more, and in those cases, including (where appropriate)  
16 those cases where the lease has been extended or amended, the  
17 tax in this chapter shall be based on the cash value of the  
18 lease rentals discounted to present day value and capitalized at  
19 the rate of six per cent, plus the actual and full consideration  
20 paid or to be paid for any and all improvements, if any, that  
21 shall include on-site as well as off-site improvements,

1 applicable to the leased premises; and provided further that the  
2 tax imposed for each transaction shall be not less than \$1."

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

5 "**§247-7 Disposition of taxes.** All taxes collected under  
6 this chapter shall be paid into the state treasury to the credit  
7 of the general fund of the State, to be used and expended for  
8 the purposes for which the general fund was created and exists  
9 by law; provided that of the taxes collected each fiscal year:

10 (1) Ten per cent shall be paid into the land conservation  
11 fund established pursuant to section 173A-5;

12 (2) [~~Thirty~~] Forty-five per cent shall be paid into the  
13 rental housing trust fund established by section  
14 201H-202; [~~and~~]

15 (3) [~~Twenty-five~~] Twenty per cent shall be paid into the  
16 natural area reserve fund established by section 195-  
17 9; provided that the funds paid into the natural area  
18 reserve fund shall be annually disbursed by the  
19 department of land and natural resources in the  
20 following priority:

21 (A) To natural area partnership and forest  
22 stewardship programs after joint consultation

- 1 with the forest stewardship committee and the  
2 natural area reserves system commission;
- 3 (B) Projects undertaken in accordance with watershed  
4 management plans pursuant to section 171-58 or  
5 watershed management plans negotiated with  
6 private landowners, and management of the natural  
7 area reserves system pursuant to section 195-3;  
8 and
- 9 (C) The youth conservation corps established under  
10 chapter 193[-]; and
- 11 (4) Five per cent shall be paid into the self-help housing  
12 trust fund established by section 201H- ."

13 **PART II**

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

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

20 "**§235-110.8 Low-income housing tax credit.** (a) [~~Section~~]  
21 Except for section 42(b) of the Internal Revenue Code, which  
22 shall not be operative for purposes of this chapter, section 42



1 (with respect to the low-income housing credit) of the Internal  
2 Revenue Code shall be operative for the purposes of this chapter  
3 as provided in this section.

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

14 (c) The amount of the low-income housing tax credit that  
15 may be claimed by a taxpayer as provided in subsection (b) shall  
16 ~~be [fifty per cent of the applicable percentage of the qualified~~  
17 ~~basis of each building located in Hawaii. The applicable~~  
18 ~~percentage shall be calculated as provided in section 42(b) of~~  
19 ~~the Internal Revenue Code.]~~ equal to the amount of the federal  
20 low-income housing tax credit that the taxpayer claimed or could  
21 have claimed pursuant to section 42 of the Internal Revenue Code  
22 for the same taxable year with respect to each qualified low-

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

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

- 13 (1) Qualified basis and qualified low-income building  
14 shall be made under section 42(c);
- 15 (2) Eligible basis shall be made under section 42(d);
- 16 (3) Qualified low-income housing project shall be made  
17 under section 42(g);
- 18 (4) Recapture of credit shall be made under section 42(j),  
19 except that the tax for the taxable year shall be  
20 increased under section 42(j)(1) only with respect to  
21 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]~~ definitions and special rules  
9 in section 42(i) shall be operative for the purposes of this  
10 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 42 of the Internal Revenue Code.

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

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

10 **PART III**

11 SECTION 8. The purpose of this part is to facilitate the  
12 collection of the shared appreciation equity lien, deferred  
13 sales price lien, and excess proceeds in lieu of any buyback,  
14 imposed by the State on the sale of affordable housing  
15 properties that received assistance from the Hawaii housing  
16 finance and development corporation which are undergoing  
17 foreclosure.

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

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

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

4           (1) For a period of ten years after the purchase, whether  
5 by lease, assignment of lease, deed, or agreement of  
6 sale, if the purchaser wishes to transfer title to the  
7 real property, the corporation shall have the first  
8 option to purchase the real property at a price that  
9 shall not exceed the sum of:

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

12           (B) The cost of any improvements added by the  
13 purchaser, as defined in rules adopted by the  
14 corporation; and

15           (C) Simple interest on the original cost and capital  
16 improvements to the purchaser at the rate of one  
17 per cent a year;

18           (2) The corporation may purchase the real property either:

19           (A) By conveyance free and clear of all mortgages and  
20 liens; or

21           (B) By conveyance subject to existing mortgages and  
22 liens.

1 If the real property is conveyed in the manner  
2 provided in subparagraph (A), it shall be conveyed to  
3 the corporation only after all mortgages and liens are  
4 released. If the real property is conveyed in the  
5 manner provided in subparagraph (B), the corporation  
6 shall acquire the property subject to any first  
7 mortgage created for the purpose of securing the  
8 payment of a loan of funds expended solely for the  
9 purchase of the real property by the seller; and any  
10 mortgage or lien created for any other purpose  
11 provided that the corporation has previously consented  
12 to it in writing.

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

- 17 (i) Any first mortgage created for the purpose  
18 of securing the payment of a loan of funds  
19 expended solely for the purchase of the real  
20 property by the seller;
- 21 (ii) Any mortgage insured or held by a federal  
22 housing agency; and

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

4           The amount paid by the corporation to the seller shall  
5           be the difference, if any, between the purchase price  
6           determined by paragraph (1) (A) to (C), and the total  
7           of the outstanding principal balances of the mortgages  
8           and liens assumed by the corporation;

9           (3) A purchaser may refinance real property developed and  
10           sold under this chapter provided that the purchaser  
11           shall not refinance the real property within ten years  
12           from the date of purchase for an amount in excess of  
13           the purchase price as determined by paragraph (1) (A)  
14           to (C); provided further that the purchaser shall  
15           obtain the corporation's written consent while any  
16           restriction on transfer established in this chapter  
17           remains applicable;

18           (4) After the end of the tenth year from the date of  
19           initial purchase or execution of an agreement of sale,  
20           the purchaser may sell the real property and sell or  
21           assign the property free from any price restrictions;



1 provided that the purchaser shall be required to pay  
2 to the corporation the sum of:

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

5 (B) Any subsidy or deferred sales price made by the  
6 corporation in the acquisition, development,  
7 construction, and sale of the real property, and  
8 any other amount expended by the corporation not  
9 counted as costs under section 201H-45 but  
10 charged to the real property by good accounting  
11 practice as determined by the corporation whose  
12 books shall be prima facie evidence of the  
13 correctness of the costs;

14 (C) Interest on the subsidy or deferred sales price,  
15 if applicable, and any other amount expended at  
16 the rate of seven per cent a year computed as to  
17 the subsidy or deferred sales price, if  
18 applicable, from the date of purchase or  
19 execution of the agreement of sale, and as to any  
20 amount expended, from the date of expenditure;  
21 provided that the computed interest shall not  
22 extend beyond thirty years from the date of

1 purchase or execution of the agreement of sale of  
2 the real property. If any proposed sale or  
3 transfer will not generate an amount sufficient  
4 to pay the corporation the sum as computed under  
5 this paragraph, the corporation shall have the  
6 first option to purchase the real property at a  
7 price that shall not exceed the sum as computed  
8 under paragraphs (1) and (2); and

9 (D) The corporation's share of appreciation in the  
10 real property as determined under rules adopted  
11 pursuant to chapter 91, when applicable; ~~and~~

12 (5) Notwithstanding any provision above to the contrary,  
13 pursuant to rules adopted by the corporation, the  
14 subsidy or deferred sales price described in paragraph  
15 (4) (B) and any interest accrued pursuant to paragraph  
16 (4) (C) may be paid, in part or in full, at any  
17 time~~[-]~~; and

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

21 (A) Shall apply when the sale price of the real  
22 property that is developed and initially sold

1                   under this chapter is less than the then-current,  
2                   unencumbered, fair market value of the real  
3                   property as determined by a real property  
4                   appraisal obtained prior to the closing of the  
5                   sale;

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

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

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

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

14                   (1) The purchaser wishes to transfer title to the real  
15                   property by devise or through the laws of descent to a  
16                   family member who would otherwise qualify under rules  
17                   established by the corporation;

18                   (2) The sale or transfer of the real property would be at  
19                   a price and upon terms that preserve the intent of  
20                   this section without the necessity of the State  
21                   repurchasing the real property; provided that, in this  
22                   case, the purchaser shall sell the [~~unit or lot~~] real

1           property and sell or assign the real property to a  
2           person who is a "qualified resident" as defined in  
3           section 201H-32; and provided further that the  
4           purchaser shall pay to the corporation its share of  
5           appreciation in the [~~unit~~] real property as determined  
6           in rules adopted pursuant to chapter 91, when  
7           applicable; or

8           (3) The sale or transfer is of real property subject to a  
9           sustainable affordable lease as defined in section  
10          516-1."

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

12          "(e) The restrictions prescribed in this section and  
13          sections 201H-49 to 201H-51 shall be automatically extinguished  
14          and shall not attach in subsequent transfers of title when a  
15          mortgage holder or other party becomes the owner of the real  
16          property pursuant to a mortgage foreclosure, foreclosure under  
17          power of sale, or a conveyance in lieu of foreclosure after a  
18          foreclosure action is commenced; provided that the mortgage is  
19          the initial purchase money mortgage, or that the corporation  
20          consented to, and agreed to subordinate the restrictions on the  
21          mortgage when originated if the mortgage is not the initial  
22          purchase money mortgage; or when a mortgage is assigned to a

1 federal housing agency. Any law to the contrary  
2 notwithstanding, a mortgagee under a mortgage covering real  
3 property or leasehold interest encumbered by the first option to  
4 purchase in favor of the corporation, prior to commencing  
5 mortgage foreclosure proceedings, shall notify the corporation  
6 in writing of:

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

9 (2) Any intention of the mortgagee to foreclose the  
10 mortgage under chapter 667; forty-five days prior to  
11 commencing mortgage foreclosure proceedings;

12 provided that the mortgagee's failure to provide written notice  
13 to the corporation shall not affect the mortgage holder's rights  
14 under the mortgage. The corporation shall be a party to any  
15 foreclosure action, and shall be entitled to its share of  
16 appreciation in the real property as determined under this  
17 chapter in lien priority when such payment is applicable, and,  
18 if foreclosure occurs within the ten-year period after the  
19 purchase, the corporation shall also be entitled to all proceeds  
20 remaining in excess of all customary and actual costs and  
21 expenses of transfer pursuant to default, including liens and  
22 encumbrances of record; provided that the person in default

1 shall be entitled to an amount [~~which~~] that shall not exceed the  
2 sum of amounts determined pursuant to subsection (a) (1) (B) and  
3 (C).

4 (f) The provisions of this section shall be incorporated  
5 in any deed, lease, agreement of sale, or any other instrument  
6 of conveyance issued by the corporation. In any sale by the  
7 corporation of real property for which a subsidy or deferred  
8 sales price was made by the corporation, the amount of the  
9 subsidy or deferred sales price described in subsection  
10 (a) (4) (B), a description of the cost items that constitute the  
11 subsidy or deferred sales price, and the conditions of the  
12 subsidy or deferred sales price shall be clearly stated at the  
13 beginning of the contract document issued by the corporation.  
14 In any sale in which the corporation's share of appreciation in  
15 real property shall be a restriction, the terms of the shared  
16 appreciation equity program shall be clearly stated and included  
17 as an exhibit in any deed, lease, agreement of sale, or any  
18 other instrument of conveyance."

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

21 "(a) Restrictions on the use, sale, and transfer of real  
22 property shall be made as uniform as possible in application to

1 purchasers of all real property, and restrictions shall be  
2 conformed with agreement of the purchaser to reflect change or  
3 repeal made by any subsequent legislative act, ordinance, rule,  
4 or regulation. Purchasers shall be permitted at their election  
5 to sell or transfer real property subject to restrictions in  
6 effect at the time of their sale or transfer[-]; provided that  
7 the corporation is paid its share of appreciation in the real  
8 property as determined by rules adopted pursuant to chapter 91,  
9 as applicable."

10 **PART IV**

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

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

19 **"PART . MORTGAGE CREDIT CERTIFICATES**

20 **§235-A Definitions.** As used in this part:

1 "Certificate credit rate" means the rate of the credit  
2 allowable by this part that is specified in the mortgage credit  
3 certificate.

4 "Certified indebtedness amount" means the amount of  
5 indebtedness that is incurred by the taxpayer to acquire the  
6 principal residence of the taxpayer and specified in the  
7 mortgage credit certificate.

8 "Mortgage credit certificate" means any certificate that is  
9 issued under a qualified mortgage credit certificate program to  
10 the taxpayer in connection with the acquisition of the  
11 taxpayer's principal residence, specifies the certificate credit  
12 rate and the certified indebtedness amount, and is in a form as  
13 the director may prescribe.

14 "Principal residence" has the same meaning as used in  
15 section 121 of the federal Internal Revenue Code of 1986, as  
16 amended.

17 "Qualified mortgage credit certificate program" means any  
18 program:

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

21 (A) The residence financed by the indebtedness is a  
22 single-family residence in the State that can



1                    reasonably be expected to become the principal  
2                    residence of the mortgagor within a reasonable  
3                    time after the financing is provided;

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

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

10                    (D) The income of the mortgagor does not exceed  
11                    \$                    ;

12                    (2) Under which no mortgage credit certificate may be  
13                    issued with respect to any residence for which any of  
14                    the financing is provided from the proceeds of a  
15                    qualified mortgage bond or a qualified veterans'  
16                    mortgage bond;

17                    (3) Except to the extent provided in rules, that is not  
18                    limited to indebtedness incurred from particular  
19                    lenders; and

20                    (4) Except to the extent provided in rules, which provides  
21                    that a mortgage credit certificate is not  
22                    transferable.

1           **§235-B Allowance of credit.** (a) There shall be allowed  
2 as a credit against the tax imposed by this chapter, for the  
3 taxable year, an amount equal to the product of:

4           (1) The certificate credit rate; and

5           (2) The interest paid or accrued by the taxpayer during  
6 the taxable year on the remaining principal of the  
7 certified indebtedness amount.

8           (b) If the certificate credit rate exceeds twenty per  
9 cent, the amount of the credit allowed to the taxpayer under  
10 this section for any taxable year shall not exceed \$2,000.

11           (c) If two or more persons hold interests in any  
12 residence, the limitation of subsection (b) shall be allocated  
13 among the persons in proportion to their respective interests in  
14 the residence.

15           **§235-C Determination of certificate credit rate.** For  
16 purposes of this part, the certificate credit rate specified in  
17 any mortgage credit certificate shall not be less than ten per  
18 cent or more than fifty per cent.

19           **§235-D Aggregate limit on certificate credit rates.** In  
20 the case of each qualified mortgage credit certificate program,  
21 the sum of the products determined by multiplying the certified  
22 indebtedness amount of each mortgage credit certificate issued

1 under the program, by the certificate credit rate with respect  
2 to the certificate, shall not exceed the amount authorized by  
3 the legislature for that year by adoption of a concurrent  
4 resolution.

5 **§235-E Carry forward of unused credit.** (a) If the credit  
6 allowable under this part for any taxable year exceeds the  
7 applicable tax limit for the taxable year, the excess shall  
8 carryover to each of the three succeeding taxable years and,  
9 subject to the limitations of subsection (b), shall be added to  
10 the credit allowable by this part for the succeeding taxable  
11 year.

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

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

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

21 **§235-F Indebtedness not treated as certified where certain**  
22 **requirements not, in fact, met.** (a) This part shall not apply

1 to any indebtedness if all the requirements of section 235- ,  
2 were not, in fact, met with respect to the indebtedness.

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

7 **§235-G Period for which certificate in effect.** (a)

8 Except as otherwise provided in this part, a mortgage credit  
9 certificate shall be treated as in effect with respect to  
10 interest attributable to the period:

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

12 (2) Ending on the earlier of:

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

14 (B) The date on which the residence to which the  
15 certificate relates ceases to be the principal  
16 residence of the individual to whom the  
17 certificate relates.

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

21 **§235-H Interest paid or accrued to related persons.** No  
22 credit shall be allowed under this part for any interest paid or

1 accrued to a person who is a related person to the taxpayer,  
2 within the meaning of section 144(a)(3)(A) of the federal  
3 Internal Revenue Code of 1986, as amended.

4 **§235-I Reporting requirements.** (a) Each person who makes  
5 a loan that is a certified indebtedness amount under any  
6 mortgage credit certificate shall file a report with the  
7 director containing:

8 (1) The name, address, and social security account number  
9 of the individual to which the certificate was issued;

10 (2) The certificate's issuer, date of issue, certified  
11 indebtedness amount, and certificate credit rate; and

12 (3) Any other information as the director may require by  
13 rules.

14 (b) Each person who issues a mortgage credit certificate  
15 shall file a report showing the information as the director  
16 shall prescribe by rules. Any report shall be filed at a time  
17 and in a manner as the director may require by rules.

18 **§235-J Rules.** The director shall adopt rules pursuant to  
19 chapter 91 as may be necessary to carry out the purposes of this  
20 part, including rules that may require recipients of mortgage  
21 credit certificates to pay a reasonable processing fee to defray  
22 the expenses incurred in administering the program."

**Report Title:**

Housing; Affordable Housing; Omnibus

**Description:**

Increases incentives for the development of affordable housing in Hawaii. (SD1)

1 SECTION 13. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2009-2010 and  
4 the same sum or so much thereof as may be necessary for fiscal  
5 year 2010-2011 for the mortgage credit certificate program  
6 established by this part.

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

9 **PART V**

10 SECTION 14. The purpose of this part is to direct the  
11 Hawaii housing finance and development corporation to develop  
12 recommendations regarding the use of tax incremental financing.

13 SECTION 15. The Hawaii housing finance and development  
14 corporation shall report to the legislature no later than twenty  
15 days prior to the convening of the regular session of 2010 with  
16 recommendations regarding the use of tax incremental financing  
17 as an economic development tool to leverage private development  
18 investment, including the experiences of other jurisdictions,  
19 the establishment of tax incremental districts, and any  
20 legislation that may be required to implement tax incremental  
21 financing in Hawaii.

22 **PART VI**

1           SECTION 16. In codifying the new sections added by section  
2 12 of this Act, the revisor of statutes shall substitute  
3 appropriate section numbers for the letters used in designating  
4 the new sections in this Act.

5           SECTION 17. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 18. This Act shall take effect on July 1, 2035;  
8 provided that sections 7 and 12 shall apply to taxable years  
9 beginning after December 31, 2008.