
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. In fact, a
12 number of self-help housing homeowners in Hawaii have been
13 homeless 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 (1) Appropriations made by the legislature;

18 (2) Private contributions;

19 (3) Repayment of loans;

20 (4) Interest and other returns; and

21 (5) Moneys from other sources.

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

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

1 (f) The corporation shall submit an annual report to the
2 legislature no later than twenty days prior to the convening of
3 each regular session describing the projects funded and its
4 efforts to develop self-help housing projects, including any
5 assistance or other partnership efforts with private or other
6 governmental self-help housing organizations.

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

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

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

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

- 1 (A) Ten cents per \$100 for properties with a value of
2 less than \$600,000;
- 3 (B) Twenty cents per \$100 for properties with a value
4 of at least \$600,000, but less than \$1,000,000;
5 ~~[and]~~
- 6 (C) ~~[Thirty]~~ Fifty cents per \$100 for properties with
7 a value of at least \$1,000,000 ~~[or greater; and]~~,
8 but less than \$2,000,000;
- 9 (D) \$1 per \$100 for properties with a value of at
10 least \$2,000,000, but less than \$4,000,000;
- 11 (E) \$2 per \$100 for properties with a value of at
12 least \$4,000,000, but less than \$6,000,000;
- 13 (F) \$3 per \$100 for properties with a value of at
14 least \$6,000,000, but less than \$10,000,000; and
- 15 (G) \$4 per \$100 for properties with a value of
16 \$10,000,000 or greater; and
- 17 (2) For the sale of a condominium or single family
18 residence for which the purchaser is ineligible for a
19 county homeowner's exemption on property tax:
- 20 (A) Fifteen cents per \$100 for properties with a
21 value of less than \$600,000;

- 1 (B) Twenty-five cents per \$100 for properties with a
2 value of at least \$600,000, but less than
3 \$1,000,000; [~~and~~]
- 4 (C) [~~Thirty-five cents~~] \$1 per \$100 for properties
5 with a value of at least \$1,000,000 [~~or greater~~],
6 but less than \$2,000,000;
- 7 (D) \$2 per \$100 for properties with a value of at
8 least \$2,000,000, but less than \$4,000,000;
- 9 (E) \$4 per \$100 for properties with a value of at
10 least \$4,000,000, but less than \$6,000,000;
- 11 (F) \$6 per \$100 for properties with a value of at
12 least \$6,000,000, but less than \$10,000,000; and
- 13 (G) \$8 per \$100 for properties with a value of
14 \$10,000,000 or greater,
- 15 of [~~such~~] the actual and full consideration[~~r~~] paid; provided
16 that in the case of a lease or sublease, this chapter shall
17 apply only to a lease or sublease whose full unexpired term is
18 for a period of five years or more, and in those cases,
19 including (where appropriate) those cases where the lease has
20 been extended or amended, the tax in this chapter shall be based
21 on the cash value of the lease rentals discounted to present day
22 value and capitalized at the rate of six per cent, plus the

1 actual and full consideration paid or to be paid for any and all
2 improvements, if any, that shall include on-site as well as off-
3 site improvements, applicable to the leased premises; and
4 provided further that the tax imposed for each transaction shall
5 be not less than \$1."

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

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

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

15 (2) [~~Thirty~~] Forty-five per cent shall be paid into the
16 rental housing trust fund established by section
17 201H-202; [~~and~~]

18 (3) [~~Twenty-five~~] Twenty per cent shall be paid into the
19 natural area reserve fund established by section 195-
20 9; provided that the funds paid into the natural area
21 reserve fund shall be annually disbursed by the

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

17 **PART II**

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

1 SECTION 7. 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 Except for section 42(b) of the Internal Revenue Code, which
5 shall not be operative for purposes of this chapter, section 42
6 (with respect to the low-income housing credit) of the Internal
7 Revenue Code shall be operative for the purposes of this chapter
8 as provided in this section.

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

19 (c) The amount of the low-income housing tax credit that
20 may be claimed by a taxpayer as provided in subsection (b) shall
21 be ~~[fifty per cent of the applicable percentage of the qualified~~
22 ~~basis of each building located in Hawaii. The applicable~~

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

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

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

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

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

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

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

21 (1) The taxable year in which the building is placed in
22 service; or

1 (2) At the election of the taxpayer, the succeeding
2 taxable year;
3 provided that the building is a qualified low-income building as
4 of the close of the first year of the five-year period. The
5 election under paragraph (2), once made, shall be irrevocable.

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

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

18 A tax credit under this section [~~which~~] that exceeds the
19 taxpayer's income tax liability may be used as a credit against
20 the taxpayer's income tax liability in subsequent years until
21 exhausted. All claims for a tax credit under this section must
22 be filed on or before the end of the twelfth month following the

1 close of the taxable year for which the credit may be claimed.
2 Failure to properly and timely claim the credit shall constitute
3 a waiver of the right to claim the credit. A taxpayer may claim
4 a credit under this section only if the building or project is a
5 qualified low-income housing building or a qualified low-income
6 housing project under section 42 of the Internal Revenue Code.

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

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

12 **PART III**

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

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

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

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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 the payment is applicable, and, if
18 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 ownership interest in the
5 mortgagor's principal residence at any time
6 during the three-year period ending on the date
7 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 number of the
9 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. (SD2)

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.