

JAN 20 2010

A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

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

1 SECTION 1. Chapter 201H, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§201H- Low-income housing tax credit loan. (a) The
5 corporation may provide a no-interest low-income housing tax
6 credit loan to an owner of a qualified low-income building that
7 has been awarded federal tax credits which are subject to the
8 state housing tax credit ceiling under section 42(h)(3)(C) of
9 the Internal Revenue Code or a subaward under section 1602 of
10 the American Recovery and Reinvestment Act of 2009, Public Law
11 111-5. The loan shall be in an amount equal to seventy per cent
12 of the cash value of the amount of the low-income housing tax
13 credit that would otherwise have been claimable with respect to
14 the qualified low-income building under section 235-110.8, for
15 each taxable year in the ten-year credit period discounted to
16 present day value and capitalized at the rate of interest on the
17 taxable general obligation bonds used to fund the loan.



1 (b) A qualified low-income building for which the owner is
2 provided a low-income housing tax credit loan under this section
3 shall not be eligible for the state income tax credit under
4 section 235-110.8.

5 (c) The corporation shall impose conditions or
6 restrictions on the low-income housing tax credit loan
7 including:

8 (1) A requirement providing for acceleration and repayment
9 on any no-interest loan under this section so as to
10 assure that the building with respect to which the
11 loan is made remains a qualified low-income building
12 under section 42 of the Internal Revenue Code or
13 section 1602 of the American Recovery and Reinvestment
14 Act of 2009, Public Law 111-5. Any repayment shall be
15 payable to the housing finance revolving fund and may
16 be enforced by means of liens or such other methods as
17 the corporation deems appropriate;

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

21 (4) Recapture of credit shall be made under section 42(j),
22 except that the tax for the taxable year shall be



1 increased under section 42(j)(1) only with respect to
2 credits that were used to reduce state income taxes;
3 and

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

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

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

21 (g) The credit allowed under this section shall be claimed
22 against net income tax liability for the taxable year. For the



1 purpose of deducting this tax credit, net income tax liability
2 means net income tax liability reduced by all other credits
3 allowed the taxpayer under this chapter.

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

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

18 (h) In lieu of the credit awarded under this section to a
19 qualified low-income building that has been awarded federal
20 credits which are subject to the state housing credit ceiling
21 under section 42(h)(3)(C) of the Internal Revenue Code or a
22 subaward under section 1602 of the American Recovery and



1 Reinvestment Act of 2009, Public Law 111-5, the owner of the
2 qualified low-income building may make a request to the Hawaii
3 housing finance and development corporation for a loan under
4 section 201H- . If the owner elects to receive the loan
5 pursuant to section 201H- , the qualified low-income building
6 shall not be eligible for the credit under this section.

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

9 SECTION 3. The director of finance is authorized to issue
10 general obligation bonds in the sum of \$ or so much
11 thereof as may be necessary and the same sum or so much thereof
12 as may be necessary is appropriated for fiscal year 2010-2011
13 for the purpose of low-income housing tax credit loans made
14 pursuant to section 201H- , Hawaii Revised Statutes.

15 The sum appropriated may be expended by the Hawaii housing
16 finance and development corporation for the purposes of this
17 Act.

18 SECTION 4. The appropriation made for the low-income
19 housing tax credit loans authorized by this Act shall not lapse
20 at the end of the fiscal year for which the appropriation is
21 made; provided that all moneys from the appropriation
22 unencumbered as of June 30, 2012, shall lapse as of that date.



S.B. NO. 2109

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2010 and
4 shall apply to qualified low-income buildings placed in service
5 after December 31, 2010.

6

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Report Title:

Low-Income Housing Tax Credits; Grant Exchange Program

Description:

Establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits administered by the Hawaii housing finance and development corporation. Authorizes issuance of general obligation bonds to fund the loans.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

