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# 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 that 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. The owner of a qualified low-  
7 income building that has been awarded a subaward under Section  
8 1602 of the American Recovery and Reinvestment Act of 2009,  
9 Public Law 111-5, shall also be eligible for the credit provided  
10 in this section.

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

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



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

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

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

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

9           (e) As provided in ~~[section]~~ Section 42(e) [7] of the  
10 Internal Revenue Code, rehabilitation expenditures shall be  
11 treated as a separate new building and their treatment under  
12 this section shall be the same as in ~~[section]~~ Section 42(e) [7]  
13 of the Internal Revenue Code. The definitions and special rules  
14 relating to credit period in ~~[section]~~ Section 42(f) of the  
15 Internal Revenue Code and the definitions and special rules in  
16 ~~[section]~~ Section 42(i) of the Internal Revenue Code shall be  
17 operative for the purposes of this section.

18           (f) The state housing credit ceiling under ~~[section]~~  
19 Section 42(h) of the Internal Revenue Code shall be zero for the  
20 calendar year immediately following the expiration of the  
21 federal low-income housing tax credit program and for any  
22 calendar year thereafter, except for the carryover of any credit



1 ceiling amount for certain projects in progress which, at the  
2 time of the federal expiration, meet the requirements of  
3 ~~[section]~~ Section 42 [-] of the Internal Revenue Code.

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

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



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

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

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

17 SECTION 3. The director of finance is authorized to issue  
18 taxable general obligation bonds in the sum of \$ or so  
19 much thereof as may be necessary and the same sum or so much  
20 thereof as may be necessary is appropriated for fiscal year  
21 2010-2011 for the purpose of low-income housing tax credit loans  
22 made pursuant to section 201H - , Hawaii Revised Statutes.





1           The sum appropriated may be expended by the Hawaii housing  
2 finance and development corporation for the purposes of this  
3 Act.

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

9           SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11           SECTION 6. This Act shall take effect on July 1, 2020, and  
12 shall apply to qualified low-income buildings placed in service  
13 after December 31, 2010.



**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. Applies to qualified low-income buildings placed in service after December 31, 2010. Effective July 1, 2020.  
(SB2109 HD1)

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

