

JAN 22 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. The legislature finds that the need for
2 low-income housing in the State has reached its peak and that
3 the construction industry, which is one of the primary driving
4 forces in the State's economy, is in dire need of alternative
5 financing mechanisms that would enable them to sustain and
6 complete low-income housing projects. The idea of taxpayers in
7 the construction industry foregoing certain state tax credits in
8 exchange for an interest-free loan would provide an optimal
9 solution for the affordable housing crisis in the State and
10 would also help get the State's economy back on its feet by
11 providing local employment opportunities to those in the
12 construction industry.

13 Senate Concurrent Resolution No. 132, S.D. 1 (2009),
14 established a task force to determine the economic contributions
15 of the construction industry in Hawaii. As directed in the
16 concurrent resolution, the task force has developed a series of
17 proposals for state actions to preserve and create new jobs in



1 the local construction industry. The intent of this Act is to
2 implement one of the task force's proposals.

3 The purpose of this Act is to establish a low-income
4 housing tax credit loan program that would be administered by
5 the Hawaii housing finance and development corporation to allow
6 owners of qualified low-income buildings to receive a no
7 interest loan from the State in lieu of claiming the low-income
8 housing tax credit.

9 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§201H- Low-income housing tax credit loan. (a) The
13 corporation may provide a no interest low-income housing tax
14 credit loan to an owner of a qualified low-income building that
15 has been awarded federal credits which are subject to the state
16 housing credit ceiling under section 42(h)(3)(C) of the Internal
17 Revenue Code, federal credits which are allocated pursuant to
18 section 42(h)(4) of the Internal Revenue Code, or a subaward
19 under section 1602 of the American Recovery and Reinvestment Act
20 of 2009, Public Law 111-5. The loan shall be in an amount equal
21 to _____ per cent of the cash value of the amount of the
22 low-income housing credit determined under section 235-110.8 for



1 each taxable year in the ten year credit period discounted to
2 present day value and capitalized at the rate of interest on the
3 taxable general obligation bonds used to fund the loan.

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

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

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

19 (2) The same limitations on rent, income, and use
20 restrictions on such buildings as an allocation of
21 housing credit dollar amount allocated under section
22 42 of the 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 its duties under this section
15 and may retain an agent or other private contractor to satisfy
16 the requirements of this section.

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

20 SECTION 3. Section 235-110.8, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§235-110.8 Low-income housing tax credit. (a) Section
2 42 (with respect to low-income housing credit) of the Internal
3 Revenue Code shall be operative for the purposes of this chapter
4 as provided in this section. A qualified low-income building
5 that has been awarded a subaward under section 1602 of the
6 American Recovery and Reinvestment Act of 2009, Public Law
7 111-5, shall also be eligible for the credit provided in this
8 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.

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

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

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

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

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

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

17 of the Internal Revenue Code.

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



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

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

10 (g) The credit allowed under this section shall be claimed
11 against net income tax liability for the taxable year. For the
12 purpose of deducting this tax credit, net income tax liability
13 means net income tax liability reduced by all other credits
14 allowed the taxpayer under this chapter.

15 A tax credit under this section which exceeds the
16 taxpayer's income tax liability may be used as a credit against
17 the taxpayer's income tax liability in subsequent years until
18 exhausted. All claims for a tax credit under this section must
19 be filed on or before the end of the twelfth month following the
20 close of the taxable year for which the credit may be claimed.
21 Failure to properly and timely claim the credit shall constitute
22 a waiver of the right to claim the credit. A taxpayer may claim



1 a credit under this section only if the building or project is a
2 qualified low-income housing building or a qualified low-income
3 housing project under section 42 of the Internal Revenue Code.

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

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

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

20 SECTION 4. The director of finance is authorized to issue
21 general obligation bonds in the sum of \$ or so much
22 thereof as may be necessary and the same sum or so much thereof



1 as may be necessary is appropriated for fiscal year 2010-2011
2 for the purpose of funding low-income housing tax credit loans
3 made pursuant to section 201H- , Hawaii Revised Statutes.

4 SECTION 5. The appropriation made for the capital
5 improvement project authorized by this Act shall not lapse at
6 the end of the fiscal biennium 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 6. The sum appropriated shall be expended by the
10 Hawaii housing finance and development corporation for the
11 purposes of this Act.

12 SECTION 7. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect upon its approval
15 and shall apply to taxable years beginning after December 31,
16 2009.

17

INTRODUCED BY:



By Request



Report Title:

Construction Task Force; Low-Income Housing; Tax Credit Loans

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 GO bonds to fund loans.

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