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**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
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IN REPLY REFER TO

Statement of  
**Karen Seddon**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON HOUSING**

March 17, 2010 9:00 a.m.  
Room 325, State Capitol

In consideration of

**H.C.R. 191 URGING THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION TO ADOPT POLICIES THAT PROVIDE FULL DISCLOSURE OF TAX EXEMPTIONS IT CERTIFIES.**

The HHFDC ***opposes*** H.C.R. 191 because under current law, the HHFDC is not able to disclose confidential tax information.

The HHFDC has been advised by its Deputy Attorneys General that GET exemption information derived from Department of Taxation Form G-37 are covered by confidentiality restrictions contained in Section 237-34(b), HRS. Under section 237-34, HRS, tax returns and return information may not be considered public information. And unauthorized disclosure of certain information by state employees is a criminal misdemeanor. While the HHFDC already maintains a record of all information listed in items (1) through (3) in this Concurrent Resolution, we are not able to publicly disclose that information.

A summary of the GET exemption program is attached for your information.

Thank you for the opportunity to testify.

**General Excise Tax Exemption Program**  
**§§201H-36, 237-29, Hawaii Revised Statutes**

The HHFDC may approve and certify for exemption from GET any qualified person or firm involved with a newly constructed or moderately or substantially rehabilitated project:

- a. Developed under Chapter 201H;
- b. Developed under a government assistance program approved by the HHFDC;
- c. Developed under the sponsorship of a private nonprofit corporation providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing; or
- d. Developed by a qualified person or firm to provide affordable rental housing where at least 50 percent of the available units are for households with incomes at or below 80 percent of the area median income, as determined by HUD, of which at least 20 percent of the available units are for households with incomes at or below 60 percent of the area median income.

The housing project must be an "eligible project" which, except for (d) above, meets the following income targeting criteria:

- a. At least 20 percent of the units are set aside for households earning up to 50 percent of the HUD area median income;
- b. At least 40 percent of the units are set aside for households earning up to 95 percent of the HUD area median income; or
- c. At least 60 percent of the units are set aside for households earning up to 140 percent of the HUD area median income.

The Counties are authorized to certify housing projects for GET and use tax exemptions, pursuant to Section 46-15.1(a), HRS, and, as such constitute an undetermined portion of the total GET exemptions claimed under the auspices of Sections 201H-36 and 237-29, HRS.

Pursuant to 15-306-12, Hawaii Administrative Rules (HAR), the developer or general contractor of a housing project that will be newly constructed or moderately or substantially rehabilitated must submit an application for certification of the housing project for exemption from GET. The application consists of the following:

1. A cover letter requesting the GET exemption, including a list of qualified persons or firms previously granted or currently claiming an exemption and contract amounts for each of the qualified persons or firms;
2. Completed GET exemption claim forms for all persons or firms (see enclosed Department of Taxation form G-37);
3. A description of the housing project, including the number of units affordable to households at various income levels;
4. Authorization for HHFDC to conduct on-site inspections of the project; and
5. Any additional information necessary for HHFDC to make a determination.

Upon receipt of a complete application, HHFDC has ten working days to determine whether the person or firm is eligible for the GET exemption. If eligible, the HHFDC Executive Director signs the Form G-37 to certify that the claimant is contractually participating in the eligible housing project. The original of the Form G-37 is forwarded to the Department of Taxation, a copy is sent to the claimant, and HHFDC retains a copy for file.

The criteria used to approve or disapprove a project for exemption from GET is set forth in 15-306-14, HAR. HHFDC must determine that (1) the project is an "eligible housing project", (2) that the exemption will achieve cost savings to assure economic feasibility of the project, and (3) the project is consistent with any other requirements under the law or Chapter 15-306, HAR.

As provided in section 201H-36(a), HRS, the certification for exemption for construction or moderate or substantial rehabilitation of an eligible affordable housing project is issued by project. If a newly-constructed or substantially modified project meets eligibility criteria, the entire project is certified for exemption.

With respect to GET exemptions on affordable rents, pursuant to section 15-306-13, HAR, the HHFDC requires certified rental projects requesting exemptions for affordable rents to submit a new GET exemption claim on an annual basis. The submission must include a rent schedule and verification that tenants meet the income criteria necessary, as well as an audited income statement. These materials are reviewed for approval by HHFDC staff, and, should a project no longer meet certification requirements, the claimant's request for exemption would be denied.

The exemption for affordable rents is further limited to the number of residential units that meet the necessary affordability criteria. Income generated from sources other than affordable rents, such as laundromats, parking fees, or other commercial ventures, are not eligible for a GET exemption.