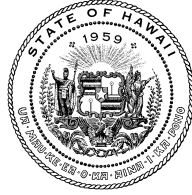


SB1118

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

SENATE COMMITTEE ON EDUCATION & HOUSING

TESTIMONY REGARDING SB 1118 RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 9, 2009

TIME: 1:15PM

ROOM: 225

This legislation amends the low income housing tax credit provisions to provide for a lower credit schedule over a five-year period and decouples from the Internal Revenue Code (the "Code") with respect to recapture provisions.

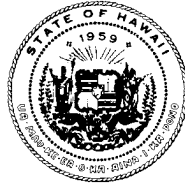
Although this measure would result in a gain in revenues, we **OPPOSE** this measure as it would make it less desirable for developers and other taxpayers to develop and invest in affordable housing projects, which would increase the affordable housing shortage in Hawaii. **The Department prefers SB 861.**

Under current law, §235-110.8 allows an eligible taxpayer to claim 50% of the federal low income housing credit over a period of ten years. The federal low-income housing tax credit is claimed over ten years. This measure would reduce the Hawaii credit percentage (expressed as a percentage of the applicable federal percentage) to 35% in the first year, 25%, in the second year, 20% in the third year, and 10% each in the fourth and fifth years. The measure also provides a maximum amount of credit that a taxpayer may claim. In effect, this measure lowers the return to low-income housing tax credit investors and investing in such projects would likely become less desirable.

In addition to the aforementioned changes, this measure amends the recapture provisions that are applicable to sales and dispositions of low income tax credit projects. §42(j) of the Code needs to remain applicable because it provides the appropriate recapture of the accelerated portion of the credit.

The revenue increase for this measure is estimated to be as follows: \$400,000 in FY 2010, \$1 million in FY 2011, \$1.6 million in FY 2012, \$2.2 million in FY 2013, and \$2.6 million in FY 2014.

Linda Lingle
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the
SENATE COMMITTEE ON EDUCATION AND HOUSING

February 9, 2009 1:15 p.m.
Room 225, State Capitol

In consideration of
S.B. 1118
RELATING TO LOW INCOME HOUSING.

The Hawaii Housing Finance and Development Corporation (HHFDC) **opposes** S.B. 1118. We appreciate the intent of this bill, but cannot support it because its provisions vary too far from provisions of the Federal Low-Income Housing Tax Credit (LIHTC) program as set forth in Section 42 of the Internal Revenue Code. We defer to the Department of Taxation on the merits of the specific provisions contained in this bill.

We also oppose the cap on the amount of credits that can be claimed each year, and the ceiling of \$2,000,000 per project. Many affordable rental projects require total State LIHTC awards in excess of that amount in order to be economically feasible to develop.

Thank you for the opportunity to testify.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Low-income housing credit

BILL NUMBER: SB 278; SB 1118 (Similar)

INTRODUCED BY: SB 278 by Nishihara; SB 1118 by Sakamoto and Chun Oakland and 3 Democrats

BRIEF SUMMARY: Amends HRS section 235-110.8 (b) to provide that the low-income housing tax credit and maximum credit allowed applicable for Hawaii shall be:

Year	Percentage	Maximum Amount
1	35%	\$700,000
2	25	500,000
3	20	400,000
4	10	200,000
5	10	200,000

SB 278 further provides that common law principles, including the doctrine of economic substance and business purpose, shall apply to any investment.

SB 1118 provides that if a qualified low-income housing building or qualified low-income housing project or an interest in the qualified low-income housing building or qualified low-income housing project has been sold by the taxpayer, the credit claimed under this section shall be recaptured, and be equal to 10% of the amount of the total tax credit claimed under this section in the preceding two taxable years. The amount of the recaptured tax credit shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs.

EFFECTIVE DATE: Tax years beginning after December 31, 2008

STAFF COMMENTS: The legislature by Act 216, SLH 1988, adopted the federal low-income rental housing credit which was part of the Tax Reform Act of 1986. The credit was enacted to offset the repeal of tax shelters and other incentives to build rental housing under prior law, such as accelerated depreciation, capital gains preference, certain tax-exempt bonds, etc., and to specifically target low-income rentals.

The federal credit is a 70% present value credit for qualified new construction and rehabilitation expenditures which are not federally subsidized, and 30% for those which are federally subsidized. While the existing state credit allows for a credit of 50% of the "applicable percentage of the qualified basis" allowed under federal law taken over a period of 10 years, the proposed measure would adopt varying percentages and place a limit on the amount of credit that may be claimed for buildings in Hawaii. While the proposed measure limits the dollar amount of the low-income housing credit, it is questionable

whether the credit amount is sufficient to achieve the goal of the low-income housing credit.

Although well intended, these bills fall somewhat short and, in fact, could have the opposite effect of what the authors are trying to achieve. This is because there are specific dollar amount caps which basically limit the total amount of the credit that could be claimed to \$2 million. Because there is no other provision for any excess over the \$2 million, it is quite possible that the taxpayer would forgo anything in excess, making the credit unattractive. If the intent is to make the low-income housing tax credits more attractive by accelerating the ability to claim the benefits, then the increased percentages to be claimed without the caps should accomplish that goal.

While this is just one incentive to encourage developers to build affordable housing, consideration should be given to a number of strategies including the debt financing, partnerships with financial institutions who could then turn around and sell the credits, and the use of federal private activity bonds. Finally, apparently public officials still have not recognized that one of the greatest contributors to the cost of housing in Hawaii is the draconian maze of permitting and regulatory processes in order to bring those homes to market. While those regulatory guidelines are to insure the health and safety of the public, streamlining the process would accelerate the time needed to secure those permits thereby reducing the cost of financing. This savings would go a long way toward reducing the final cost of the house to the consumer. For example, for one housing project on Kauai, it took nearly five years to secure the necessary permits to build 14 affordable homes.

Digested 2/6/09



KAMEHAMEHA SCHOOLS

February 6, 2009

Testimony to the Senate Committee on Education and Housing

By: Michael G. Dang, Director
Endowment / Planning & Development

Hearing Date: Monday, February 9, 2009
1:15 p.m. – Conference Room 225

To: Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
Members of the Committee

Re: SB 1118: Relating to Low Income Housing.

Kamehameha Schools **supports the purpose and intent of this bill.** We support policies that encourage and support the actual building of more housing for Hawaii's people.

Thank you for the opportunity to testify on this legislation.

567 South King Street • Honolulu, Hawai'i 96813-3036 • Phone 808-523-6200

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Housing Hawaii
Advocating Creating Maintaining Affordable Housing

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Kevin Carney, EAH
Housing

February 9, 2009

Vice-President
Rene Berthiaume,
TransPacific Housing
Development
Corporation

The Honorable Norman Sakamoto, Chair
Senate Committee on Education and Housing
Hawaii State Capitol, Room 230
Honolulu, HI 96813

Secretary – Denise
Boswell, Rural
Community
Assistance
Corporation

Dear Chair Sakamoto and Members:

RE: SB 1118, RELATING TO LOW-INCOME HOUSING

Treasurer - Chuck
Wathen, Wathen and
Associates, Ltd.

I am Nani Medeiros, Executive Director of Housing Hawaii, testifying on Senate Bill 1118, Relating to Low-Income Housing. This bill makes changes to the state low income housing tax credit to make the credit more appealing to investors.

Director - Kyle
Chock, The Pacific
Resource Partnership

Housing Hawaii **supports the intent** of this measure. Thank you for the opportunity to comment.

Director - Ralph
Mesick, Bank of
Hawaii

Nani Medeiros
Executive Director

Director - Laree
Purdy, Abigail
Affordable Housing
and Facilitated Home
Ownership

Director – Gregg
Robertson, Robertson
& Company, LLC

Director – Brian
Takahashi, Architects
Hawaii

Director – Kirk
Caldwell, City and
County of Honolulu

Director – Kamaile
Sombelon, Lokahi
Pacific

Executive Director
Nani Medeiros

Housing Hawaii, 841 Bishop Street, Suite 2208, Honolulu, HI 96813

Phone: 808-469-7774

Email: housinghawaii@hawaii.rr.com

www.housinghawaii.org