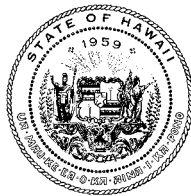


SB2592

**LINDA LINGLE**  
GOVERNOR

**JAMES R. AIONA, JR.**  
LT. GOVERNOR



**KURT KAWAFUCHI**  
DIRECTOR OF TAXATION

**STANLEY SHIRAKI**  
DEPUTY DIRECTOR

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

PHONE NO: (808) 587-1510  
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**SENATE COMMITTEE ON EDUCATION AND HOUSING**  
**TESTIMONY REGARDING SB 2592**  
**RELATING TO THE GENERAL EXCISE TAX**

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

**DATE: FEBRUARY 10, 2010**

**TIME: 1:20 PM**

**ROOM: 225**

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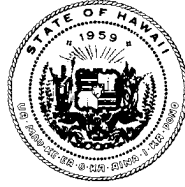
This measure provides a general excise tax exemption to qualified persons or firms who receive rental income on newly constructed or moderately or substantially rehabilitated housing projects from households that meet certain residency and annual income criteria.

The Department defers to the Hawaii Housing Finance and Development Corporation on the merits of this legislation. The Department has the following specific comments on this measure:

1. The measure adds a new definition of "qualified person or firm" to Section 237-1, Hawaii Revised Statutes although it appears that the definition is intended to apply only to Section 237-29, Hawaii Revised Statutes. Defining that term for purposes of Chapter 237 is superfluous, since the definition would be set forth in Chapter 201H and thus applicable to Section 201H-36, Hawaii Revised Statutes, which provides the general excise tax exemption. The Department suggests that the definition be omitted from Chapter 237 to limit its applicability to Chapter 201H only.

2. It appears that the intent of the measure is to limit the exemption from the general excise tax solely to that portion of rental income attributable to rentals to households that meet the residency and gross income requirements set forth in the proposed amendments to Section 201H-36, Hawaii Revised Statutes. It should be noted that a disparity will exist between low income housing providers since an organization which is exempt from income tax under Internal Revenue Code Section 501(c)(3) is fully exempt from the general excise tax on its rental income under Section 237-23(a)(4), whereas this measure would exempt only the rental income attributable to households that meet the residency and gross income requirements as set forth in the proposed amendments to Section 201H-36, Hawaii Revised Statutes.

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 10, 2010, 1:20 p.m.  
Room 225, State Capitol

In consideration of  
**S.B. 2592**  
**RELATING TO THE GENERAL EXCISE TAX.**

The HHFDC **opposes** S.B. 2592. This bill requires the HHFDC, in certifying affordable rental projects for the General Excise Tax (GET) exemptions under sections 201H-36 and 237-29, Hawaii Revised Statutes (HRS), to (1) utilize the U.S. Department of Housing and Urban Development (HUD) method of calculating eligibility for the Section 8 Housing Choice Voucher Program to determine whether a particular subset of rental units meet income eligibility requirements; and (2) utilize the Hula Mae Single Family program eligibility requirements for renters of those rental units. The HHFDC does not believe these changes are necessary or equitable.

The HHFDC also has concerns about the fairness of establishing a specific formula for calculating eligibility for only one of the four types of housing projects eligible for the GET exemption under section 201H-36(a), HRS. For fairness reasons, as well as for reasons of uniform program administration, if it is the Committee's intent to move this bill forward, we suggest that the HUD method of calculating eligibility for the Section 8 Housing Choice Voucher Program be applied to all projects eligible for GET exemptions. This includes government assistance projects, which constitute nearly all projects certified for GET exemptions by the HHFDC and its predecessors.

We also note that the HUD method includes, on top of gross income, any military basic housing allowances received. For similar fairness reasons, this bill should be amended to include all other housing allowances or subsidies in calculating income eligibility requirements for rental projects – including Section 8 vouchers, State Rent Supplement payments, and Rental Assistance Program payments. This would ensure that renters that are similarly situated, whether military or civilian, would be treated equally.

Thank you for the opportunity to testify.



## FORD ISLAND HOUSING, LLC

737 Bishop Street, Mauka Tower, Suite 2750 • Honolulu, Hawaii 96813 • 808 585-7900 • FAX 808 585-7910

February 9, 2010

The Honorable Norman Sakamoto, Chair  
Senate Committee on Education and Housing  
State Capitol, Room 225  
Honolulu, Hawaii 96813

**RE: S.B. 2592 Relating to the General Excise Tax**

HEARING: Wednesday, February 10, 2010 at 1:20 p.m.

Aloha Chair Sakamoto, Vice Chair Kidani and Members of the Committee:

I am Craig McGinnis, Vice President of Ford Island Housing, LLC (“FIH”), the ground lessee and owner of The Waterfront at Pu’uloa, a rental housing project located at Iroquois Point/Pu’uloa, Ewa Beach, Hawaii (the “Pu’uloa Housing Project”). FIH **opposes** S.B. 2592 which allows a General Excise Tax exemption to qualified persons or firms who receive rental income on newly constructed or moderately or substantially rehabilitated housing projects from households that meet certain residency and annual income criteria.

S.B. 2592 modifies HRS §201H-36(a)(4) to require that for project qualification purposes: (a) a household’s gross annual income must be as calculated by the US Department of Housing and Urban Development in determining eligibility for the Section 8 program (which in the case of the military includes all regular pay, special pay and allowances); and (b) a household must include a “qualified resident” under HRS §201H-32 who is domiciled in the State of Hawaii.

FIH is unsure whether the Pu’uloa Housing Project can maintain its current GET exemption if it has to qualify using Section 8 gross annual income, and believes the project may not be able to qualify for its current exemption if it has to exclude military tenants, most of whom may not be “qualified residents” because they are not technically domiciled in Hawaii under federal law.

The Pu’uloa Housing Project consists of 1,446 two, three and four bedroom rental housing units that were constructed around 1960 (Iroquois Point) and 1975 (Pu’uloa) as federally-owned Navy housing.

FIH acquired the Pu’uloa Housing Project from the Navy in 2003 by way of a long-term lease under which FIH agreed to make renovations to all of the rental housing units over a period of time. The final phase of the renovations was completed in 2009. About half of the units in the Pu’uloa Housing Project are still occupied by active duty military personnel.

FIH paid GET on all of the Pu'uloa Housing Project rents until 2009, when the project received an exemption from GET for a portion of its rents from the Hawaii Housing Finance and Development Corporation under HRS §201H-36(a)(4). Under HHFDC rules, the project must pay GET on rents received from units occupied by households with incomes above 140% of the area median income.

FIH believes that with the income limits imposed by its current GET exemption, the Pu'uloa Housing Project is an excellent model for the preservation of affordable workforce housing in Hawaii.

Mahalo for the opportunity to testify. We urge you to hold this bill for the foregoing reasons.

THE CHAMBER OF COMMERCE OF HAWAII

1132 Bishop Street, Suite 402

Honolulu, HI 96813

Testimony to the Senate Committee on Education and Housing

Wednesday, February 10, 2010

1:20 PM

Conference Room 225

RE: SENATE BILL NO. 2592, RELATING TO THE GENERAL EXCISE TAX

Chair Sakamoto Vice Chair Kidani, and members of the committee.

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's opposition to Senate Bill 2592, Relating To The General Excise Tax.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the US military and its civilian workforce and families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The measure proposes to allow a general excise tax exemption to qualified people or firms who receive rental income on newly constructed or moderately renovated or substantially rehabilitated housing projects from households that meet certain residency and annual income criteria.

The residency and gross income provisions outlined in this measure would dramatically change how the state would treat housing eligibility for military personnel living in Hawaii and could have negative impact on the state's affordable housing program.

It is our understanding that the calculation of annual gross income for military members would include the US Government's payment of the basic allowance for housing (BAH) in fulfilling its responsibility in providing government housing to military members. We believe that this is inappropriate for reasons outlined below.

For active duty members of the military, the US government is responsible for providing government housing for single and married personnel. Typically, members are housed in government provided housing on the base, with single members housed in dormitory-type or apartment-type facilities and married members in family-type housing. When housing is not available on base, the government authorizes members to live off-base in housing that is paid for by the government using the BAH, **which is non-taxable to the member.**

In recent years, the government elected to privatize this responsibility in a public-private venture (PPV) referred to as the Military Housing Privatization Initiative , or MHPI, wherein a private developer partners with the military in the management of the military housing program. This includes construction, renovation, maintenance and repair, and property management. The cost of this PPV program is covered by the government transferring BAH payments to the private developer in a joint venture. It is the government's method of enabling financing for these PPV projects.

The above discussion is provided to demonstrate that the BAH is not a part of a military member's monthly pay. Rather, it is an allowance used by the government to cover the cost of providing government housing to active duty military members.

The proposed measure also adds in Section 3, under HRS 210H-36, paragraph (a) (4), a new requirement that the household must include a "qualified resident" as defined in Section 201H-32. This will require the resident be domiciled in the state, which would disqualify virtually all military personnel as they are domiciled in their home states. **We should point out that a large number of military personnel qualify as low income families.**

Based on our review of this measure, believe that the inclusion of the BAH is inappropriate, that the added requirement for a person to be domiciled in the state would unfairly disqualify most military personnel, and that the measure could have negative impact on the state's affordable housing program.

In light of the above, we oppose this measure and recommend that it be held.



**Email to:** EDHTestimony  
**Hearing on:** February 10, 2010 @ 1:20 p.m.  
**Conference Room** 225

**DATE:** February 10, 2010

**TO:** Senate Committee on Education and Housing  
Senator Norman Sakamoto, Chair  
Senator Michelle Kidani, Vice Chair

**FROM:** Dennis Arakaki, Executive Director

**RE:** SUPPORT INTENT OF SB 2592, RELATING TO THE GENERAL EXCISE TAX  
SUPPORT INTENT OF SB 2593 RELATING TO THE HAWAII HOUSING FINANCE AND  
DEVELOPMENT CORPORATION  
SUPPORT INTENT OF SB 2594 RELATING TO HOUSING

Honorable Chair Senator Sakamoto, Vice Chair Senator Kidani and members of the Senate Committee on Education and Housing, I am Dennis Arakaki, **representing both the Hawaii Family Forum and the Roman Catholic Church in the State of Hawaii.**

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of over 250 Christian churches. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in Hawaii, which under the leadership of Bishop Larry Silva, represents over 220,000 Catholics in Hawaii. I also speak in behalf our community partner, the Catholic Schools of Hawaii.

We are in support the intent of **SB 2592, SB 2593 and SB 2594**, to provide General Excise Tax exemptions as a way of providing incentives to developers and owners of rental units for low and moderate income renters and for homeowners residing in new or substantially rehabilitated homes.

Thank you for allowing me to testify on these measure.



# **Nani Medeiros**

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Honolulu, HI 96826  
Tel: 808\*497\*1106

## **Senate Committee on Education and Housing**

The Hon. Norman Sakamoto, Chair

The Hon. Michelle Kidani, Vice Chair

## **Senate Bill 2592, 2593, 2594**

**Relating to the General Excise Tax, Relating to the Hawaii Housing Finance and Development Corporation, Relating to Housing**

**February 10, 2010 – 1:20 p.m.**

**State Capitol Room 225**

Thank you for the opportunity to testify, as an individual in support of Senate Bills 2592, 2593, and 2594. Due to the similarity of the issues these measures cover I have condensed my testimony in support of all three bills into one submission.

There is some ambiguity in the current 201H statute that provides GET exemptions for affordable housing. In today's economy, it makes good sense to re-examine this and other GET exemptions and determine if they are serving the best interest of the people of Hawaii. In the case of these measures, I believe they provide clear direction to the State on the intent of the legislature to provide GET exemptions and to require accountability in that process.

The main issues that these bills address are: (1) fairness; (2) hundreds of millions of GET revenues remaining in State for the benefit of the people of Hawaii; and (3) clarification of legislative intent and administrative procedure.

I urge you to pass this measure, provide a more level and fair playing field for all who need affordable housing and the developers of such projects, in addition to making available hundreds of millions of dollars into the economy at a time we desperately need these tax dollars. Thank you for this opportunity to testify in support of this very important bill.