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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
S.B. 2593, S.D. 1
RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION.

The HHFDC opposes S.B. 2593, S.D. 1. While we concur that it is important to ensure that General Excise Tax (GET) exemption claimants stay in compliance with all statutory and administrative requirements to claim their GET exemptions, we do not believe that the HHFDC is the appropriate agency to conduct the periodic reviews proposed in this bill, and that this responsibility should instead be placed with the Department of Taxation.

Although the HHFDC does retain information on the GET exemptions it has certified itself, the Counties are also empowered to issue GET exemptions to the same extent pursuant to section 46-15.1, Hawaii Revised Statutes (HRS). The HHFDC cannot determine the number and extent of County GET exemptions issued to date, and is indeed statutorily prohibited from obtaining County GET exemption information pursuant to the requirements of section 237-34(b), HRS.

Thank you for the opportunity to testify.



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March 16, 2010

The Honorable Rida Cabanilla, Chair
House Committee on Housing
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 2593, S.D.1, Relating to the Hawaii Housing Finance and Development Corporation

HEARING: Wednesday, March 17, 2010 at 9:00 a.m.

Aloha Chair Cabanilla, Vice Chair Chong and Members of the Committee:

I am Myoung Oh, Government Affairs Director of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, submitting testimony on behalf of its 8,800 members in Hawai'i. HAR would like to make the following **comments** with respect to S.B. 2593, S.D. 1, which requires the Hawaii Housing Finance and Development Corporation ("HHFDC") to conduct periodic reviews of housing projects certified for a General Excise Tax ("GET") exemption to determine whether the housing projects have met eligibility criteria required by law and rule.

HAR has historically supported mechanisms to help increase the supply of low and moderate income affordable housing such as the Rental Housing Trust Fund Program which can help integrate the use of mixed-income and mixed-use projects, special purpose revenue bonds, low-interest loans, block grants, low-income housing tax credit programs and deferred loan programs to provide rental housing opportunities. Rental Housing Trust Fund projects qualify for and benefit from the GET exemption under HRS §§ 201H-36 and 237-29.

HRS §46-15.1(a) allows counties to grant county projects an exemption from GET "in the same manner as projects of the Hawaii housing finance and development corporation pursuant to [HRS] section 201H-36;" In order to:

- (i) Apply the changes to HRS §201H-36 in S.B. 2593, S.D. 1, in a thorough and consistent manner with respect to HHFDC and County approved projects;
- (ii) Avoid "forum shopping" for this GET exemption on new projects as a result of what may be perceived to be easier County compliance standards under HRS §46-15.1(a); and
- (iii) Ensure uniform application of these GET exemption rules for items such as affordable housing associated with mixed-use transit oriented development projects;

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HAR respectfully suggests that the Committee consider amending HRS §46-15.1(a) as a part of S.B. 2593, S.D. 1, as follows:

§46-15.1 Housing; county powers. (a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the Hawaii housing finance and development corporation pursuant to chapter 201H insofar as those powers may be reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing low- and moderate-income housing; provided that no county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section; provided further that county projects shall be granted an exemption from general excise or receipts and use taxes in the same manner as projects of the Hawaii housing finance and development corporation pursuant to [section] sections 201H-36, 237-29 and 238-3(j) and the rules thereunder; and provided further that section 201H-16 shall not apply to this section unless federal guidelines specifically provide local governments with that authorization and the authorization does not conflict with any state laws. The powers shall include the power, subject to applicable limitations, to:

Alternatively, in the interests of consistency and accountability, you may want to consider only allowing the HHFDC, a State agency, to certify or approve housing projects for this State tax exemption in the future.

Mahalo for the opportunity to submit testimony.



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SUBJECT: MISCELLANEOUS, Periodic review of certified housing projects

BILL NUMBER: SB 2593, SD-1

INTRODUCED BY: Senate Committee on Education and Housing

BRIEF SUMMARY: Amends HRS section 201H-36 to require the Hawaii housing finance and development corporation (HHFDC) to conduct periodic reviews of all housing projects for which a claimant has received a general excise tax exemption at least once every three years following the close of the taxable year for which a claimant received the exemption. Each periodic review shall determine whether the housing project has met the eligibility criteria for each tax year the claimant has received an exemption.

The HHFDC shall adopt rules pursuant to HRS chapter 91 and shall include, but not be limited to, penalties for claimants who have received a general excise tax exemption without meeting the appropriate eligibility criteria.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: HRS section 237-29 provides a general excise tax exemption for the planning, design, financing, construction, sale, or lease of a certified housing project. The proposed measure would require the HHFDC to periodically review the housing projects to ensure that they meet the eligibility requirements to qualify for the exemption. Since any tax exemption results in a reduction of tax revenues by the amount of the exemption, periodic review of any tax exemption should be done on a timely basis. In the case of an affordable housing project, HHFDC should require the owners or managers of such projects to re-certify all families claiming to meet the income requirements on an annual basis. Many projects which claim to be affordable housing projects have had families living in the project for a number of years without re-qualification as to the need of the subsidized unit. This is blatantly unfair to families who may be on the waiting list for that subsidized unit. Not doing so brings into question the validity of the general excise tax exemption.

Digested 3/16/10