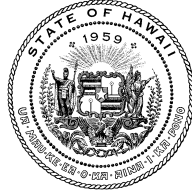


SB278

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
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SENATE COMMITTEE ON EDUCATION & HOUSING

TESTIMONY REGARDING SB 278 RELATING TO TAXATION

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

DATE: FEBRUARY 9, 2009

TIME: 1:15PM

ROOM: 225

This legislation amends Hawaii's low income housing tax credit provisions to provide for a five-year credit period and increases the credit by decoupling from §42.

While the Department **supports the intent** of encouraging the construction of affordable housing, we **OPPOSE** this measure due to budgetary constraints. **The Department prefers SB 861.**

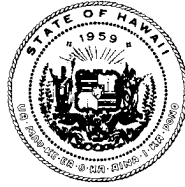
Under current law, §235-110.8, HRS, allows an eligible taxpayer to claim 50% of the federal low income housing credit over a period of ten years. The federal low-income housing tax credit is claimed over ten years. §42 of the Internal Revenue Code (the "Code"), which Hawaii conforms to, allows eligible taxpayers to obtain a credit equal to the present value of 70% of the qualified basis of new low income housing buildings that are not federally subsidized. Thus, Hawaii's current law effectively allows low income housing investors to obtain 35% (or 50% of 70%) of their qualified basis in low income housing projects in the form of credits.

This measure revises the calculation of the credit so that, instead of basing the credit on the cost of the building, which is the way the federal credit is calculated, the credit is based on "investment." The term "investment" is not defined by the bill.

In addition, the potential revenue loss is significant as the amount of Hawaii credits is no longer tied to the Hawaii's federal allocation of low income housing credits determined under §42(h).

The revenue loss for this measure is estimated to be as follows: \$105 million in FY 2010, \$180 million in FY 2011, \$240 million in FY 2012, and \$270 million in FY 2013, and \$300 million in FY 2014 and thereafter.

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. 278
RELATING TO LOW INCOME HOUSING.

The Hawaii Housing Finance and Development Corporation (HHFDC) **opposes** S.B. 278. 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 278: 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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& Company, LLC

Director – Brian

Takahashi, Architects
Hawaii

Director – Kirk

Caldwell, City and
County of Honolulu

Director – Kamaile

Sombelon, Lokahi
Pacific

February 9, 2009

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

Dear Chair Sakamoto and Members:

RE: SB 278, RELATING TO LOW-INCOME HOUSING

I am Nani Medeiros, Executive Director of Housing Hawaii, testifying in support of Senate Bill 278, Relating to Low-Income Housing. This bill makes modifications to the state low income housing tax credit.

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

Nani Medeiros
Executive Director

Executive Director
Nani Medeiros

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

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