

JAN 21 2011

A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 201H, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§201H- Low-income housing tax credit loan. (a) The
5 corporation may provide a no-interest low-income housing tax
6 credit loan to an owner of a qualified low-income building that
7 has been awarded federal tax credits which are subject to the
8 state housing tax credit ceiling under section 42(h)(3)(C) of
9 the Internal Revenue Code, federal credits which are allocated
10 pursuant to section 42(h)(4) of the Internal Revenue Code, or a
11 subaward under section 1602 of the American Recovery and
12 Reinvestment Act of 2009, Public Law 111-5. The loan shall be
13 in an amount equal to seventy per cent of the cash value of the
14 amount of the low-income housing tax credit that would otherwise
15 have been claimable with respect to the qualified low-income
16 building under section 235-110.8, for each taxable year in the
17 ten-year credit period discounted to present day value and



1 capitalized at the rate of interest on the taxable general
2 obligation bonds used to fund the loan.

3 (b) A qualified low-income building for which the owner is
4 provided a low-income housing tax credit loan under this section
5 shall not be eligible for the state income tax credit under
6 section 235-110.8.

7 (c) The corporation shall impose conditions or
8 restrictions on the low-income housing tax credit loan
9 including:

10 (1) A requirement providing for acceleration and repayment
11 on any no-interest loan under this section so as to
12 assure that the building with respect to which the
13 loan is made remains a qualified low-income building
14 under section 42 of the Internal Revenue Code or
15 section 1602 of the American Recovery and Reinvestment
16 Act of 2009, Public Law 111-5. Any repayment shall be
17 payable to the housing finance revolving fund and may
18 be enforced by means of liens or such other methods as
19 the corporation deems appropriate;

20 (2) The same limitations on rent and income and use
21 restrictions as under an allocation of a housing



1 credit dollar amount allocated under section 42 of the
2 Internal Revenue Code; and

3 (3) The payment of reasonable fees for the corporation to
4 perform or cause to be performed asset management
5 functions to ensure compliance with section 42 of the
6 Internal Revenue Code and the long-term viability of
7 buildings funded by any no-interest loan under this
8 section.

9 (d) The corporation shall perform asset management
10 functions to ensure compliance with section 42 of the Internal
11 Revenue Code or section 1602 of the American Recovery and
12 Reinvestment Act of 2009, Public Law 111-5, and the long-term
13 viability of buildings funded by a no-interest loan under this
14 section.

15 (e) The corporation may collect reasonable fees from the
16 owner of a qualified low-income building to cover expenses
17 associated with the performance of the corporation's duties
18 under this section and may retain an agent or other private
19 contractor to satisfy the requirements of this section.

20 (f) If the owner is not in default, the corporation shall
21 forgive the no-interest loan to the owner of the qualified low-
22 income building after thirty years.



1 (g) For purposes of this section "qualified low-income
2 building" shall have the same meaning as used in section
3 42(c)(2) of the Internal Revenue Code."

4 SECTION 2. Section 235-110.8, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§235-110.8 Low-income housing tax credit.** (a) Section
7 42 (with respect to low-income housing credit) of the Internal
8 Revenue Code shall be operative for the purposes of this chapter
9 as provided in this section. The owner of a qualified low-
10 income building that has been awarded a subaward under section
11 1602 of the American Recovery and Reinvestment Act of 2009,
12 Public Law 111-5, shall also be eligible for the credit provided
13 in this section.

14 (b) Each taxpayer subject to the tax imposed by this
15 chapter, who has filed [+]a[+] net income tax return for a
16 taxable year may claim a low-income housing tax credit against
17 the taxpayer's net income tax liability. The amount of the
18 credit shall be deductible from the taxpayer's net income tax
19 liability, if any, imposed by this chapter for the taxable year
20 in which the credit is properly claimed on a timely basis. A
21 credit under this section may be claimed whether or not the



1 taxpayer claims a federal low-income housing tax credit pursuant
2 to section 42 of the Internal Revenue Code.

3 (c) The amount of the low-income housing tax credit that
4 may be claimed by a taxpayer as provided in subsection (b) shall
5 be fifty per cent of the applicable percentage of the qualified
6 basis of each building located in Hawaii. The applicable
7 percentage shall be calculated as provided in section 42(b) of
8 the Internal Revenue Code. If the owner of a qualified low-
9 income building has been awarded a subaward under section 1602
10 of the American Recovery and Reinvestment Act of 2009, Public
11 Law 111-5, for purposes of subsection (b), the amount of the
12 low-income housing tax credit shall be equal to fifty per cent
13 of the amount of the federal low-income housing tax credits that
14 would have been allocated to the qualified low-income building
15 pursuant to section 42(b) of the Internal Revenue Code by the
16 Hawaii housing finance and development corporation had a
17 subaward not been awarded with respect to the qualified low-
18 income building.

19 (d) For the purposes of this section, the determination
20 of:

21 (1) Qualified basis and qualified low-income building
22 shall be made under section 42(c);



- 1 (2) Eligible basis shall be made under section 42(d);
- 2 (3) Qualified low-income housing project shall be made
- 3 under section 42(g);
- 4 (4) Recapture of credit shall be made under section 42(j),
- 5 except that the tax for the taxable year shall be
- 6 increased under section 42(j)(1) only with respect to
- 7 credits that were used to reduce state income taxes;
- 8 (5) Application of at-risk rules shall be made under
- 9 section 42(k);

10 of the Internal Revenue Code.

11 (e) As provided in section 42(e) [-] of the Internal

12 Revenue Code, rehabilitation expenditures shall be treated as

13 separate new building and their treatment under this section

14 shall be the same as in section 42(e) [-] of the Internal Revenue

15 Code. The definitions and special rules relating to credit

16 period in section 42(f) of the Internal Revenue Code and the

17 definitions and special rules in section 42(i) of the Internal

18 Revenue Code shall be operative for the purposes of this

19 section.

20 (f) The state housing credit ceiling under section 42(h)

21 of the Internal Revenue Code shall be zero for the calendar year

22 immediately following the expiration of the federal low-income



1 housing tax credit program and for any calendar year thereafter,
2 except for the carryover of any credit ceiling amount for
3 certain projects in progress which, at the time of the federal
4 expiration, meet the requirements of section 42[-] of the
5 Internal Revenue Code.

6 (g) The credit allowed under this section shall be claimed
7 against net income tax liability for the taxable year. For the
8 purpose of deducting this tax credit, net income tax liability
9 means net income tax liability reduced by all other credits
10 allowed the taxpayer under this chapter.

11 A tax credit under this section which exceeds the
12 taxpayer's income tax liability may be used as a credit against
13 the taxpayer's income tax liability in subsequent years until
14 exhausted. All claims for a tax credit under this section must
15 be filed on or before the end of the twelfth month following the
16 close of the taxable year for which the credit may be claimed.
17 Failure to properly and timely claim the credit shall constitute
18 a waiver of the right to claim the credit. A taxpayer may claim
19 a credit under this section only if the building or project is a
20 qualified low-income housing building or a qualified low-income
21 housing project under section 42 of the Internal Revenue Code.



1 Section 469 (with respect to passive activity losses and
2 credits limited) of the Internal Revenue Code shall be applied
3 in claiming the credit under this section.

4 (h) In lieu of the credit awarded under this section to an
5 owner of a qualified low-income building that has been awarded
6 federal credits which are subject to the state housing credit
7 ceiling under section 42(h)(3)(C) of the Internal Revenue Code,
8 federal credits which are allocated pursuant to section 42(h)(4)
9 of the Internal Revenue Code, or a subaward under section 1602
10 of the American Recovery and Reinvestment Act of 2009, Public
11 Law 111-5, the owner of the qualified low-income building may
12 make a request to the Hawaii housing finance and development
13 corporation for a loan under section 201H- . If the owner
14 elects to receive the loan pursuant to section 201H- , the
15 qualified low-income building shall not be eligible for the
16 credit under this section.

17 ~~[(h)]~~ (i) The director of taxation may adopt any rules
18 under chapter 91 and forms necessary to carry out this section."

19 SECTION 3. The director of finance is authorized to issue
20 general obligation bonds in the sum of \$ or so much
21 thereof as may be necessary and the same sum or so much thereof
22 as may be necessary is appropriated for fiscal year 2011-2012



1 for the purpose of low-income housing tax credit loans made
2 pursuant to section 201H- , Hawaii Revised Statutes.

3 SECTION 4. The sum appropriated shall be expended by the
4 Hawaii housing finance and development corporation for the
5 purposes of this Act.

6 SECTION 5. The appropriation made for the low-income
7 housing tax credit loans authorized by this Act shall not lapse
8 at the end of the fiscal biennium for which the appropriation is
9 made; provided that all moneys from the appropriation
10 unencumbered as of June 30, 2014, shall lapse as of that date.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on July 1, 2011, and
14 shall apply to qualified low-income buildings placed in service
15 after December 31, 2010.

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INTRODUCED BY:

Clarence Amehibaru

Thur

Donald J. ...

Will ...

Michelle ...

John ...

Malcolm ...



Report Title:

Low-Income Housing Tax Credits; Grant Exchange Program;
Appropriation

Description:

Establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits administered by the Hawaii housing finance and development corporation. Authorizes issuance of general obligation bonds to fund the loans. Applies to qualified low-income buildings placed in service after December 31, 2010.

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