

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. Senate Concurrent Resolution No. 132, S.D. 1
2 (2009), established a task force to determine the economic
3 contributions of the construction industry in Hawaii and to
4 develop a series of proposals for state actions to preserve and
5 create new jobs in the local construction industry. This Act
6 implements one of the task force's proposals in conjunction with
7 the Abercrombie administration's support for state actions to
8 create new jobs in Hawaii's construction industry.

9 In addition, in 2010, the senate committee on economic
10 development and technology and the house committee on economic
11 revitalization, business, and military affairs convened an
12 informal small business discussion group to address the most
13 critical issues facing the small business sectors within
14 Hawaii's economy. Representatives from the Chamber of Commerce
15 of Hawaii, construction and trades industries, community
16 nonprofits, the agricultural sector, food and restaurant
17 industries, retailing, the science and technology sector, the
18 commercial transportation industry, and interested stakeholders



1 developed a package of bills that address the most pressing
2 problems facing Hawaii's small business community.

3 The purpose of this Act is to support the findings of the
4 small business working group and the recommendations proposed by
5 the construction industry task force by establishing a
6 low-income housing tax credit loan program that would be
7 administered by the Hawaii housing finance and development
8 corporation to allow owners of qualified low-income buildings to
9 receive a no interest loan from the State in lieu of claiming
10 the low-income housing tax credit.

11 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§201H- Low-income housing tax credit loan. (a) The
15 corporation may provide a no interest low-income housing tax
16 credit loan to an owner of a qualified low-income building that
17 has been awarded federal credits which are subject to the state
18 housing credit ceiling under section 42(h)(3)(C) of the Internal
19 Revenue Code, federal credits which are allocated pursuant to
20 section 42(h)(4) of the Internal Revenue Code, or a subaward
21 under section 1602 of the American Recovery and Reinvestment Act
22 of 2009, Public Law 111-5. The loan shall be in an amount equal



1 to per cent of the cash value of the amount of the
2 low-income housing credit determined under section 235-110.8 for
3 each taxable year in the ten-year credit period discounted to
4 present day value and capitalized at the rate of interest on the
5 taxable general obligation bonds used to fund the loan.

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

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

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

21 (2) The same limitations on rent, income, and use
22 restrictions on such buildings as an allocation of



1 housing credit dollar amount allocated under section
2 42 of the 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, and the long-term viability of
13 buildings funded by a no interest loan under this section.

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

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



1 SECTION 3. Section 235-110.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§235-110.8 Low-income housing tax credit. (a) Section
4 42 (with respect to low-income housing credit) of the Internal
5 Revenue Code shall be operative for the purposes of this chapter
6 as provided in this section. A qualified low-income building
7 that has been awarded a subaward under section 1602 of the
8 American Recovery and Reinvestment Act of 2009, Public Law
9 111-5, shall also be eligible for the credit provided in this
10 section.

11 (b) Each taxpayer subject to the tax imposed by this
12 chapter, who has filed [H]a[H] net income tax return for a
13 taxable year may claim a low-income housing tax credit against
14 the taxpayer's net income tax liability. The amount of the
15 credit shall be deductible from the taxpayer's net income tax
16 liability, if any, imposed by this chapter for the taxable year
17 in which the credit is properly claimed on a timely basis. A
18 credit under this section may be claimed whether or not the
19 taxpayer claims a federal low-income housing tax credit pursuant
20 to section 42 of the Internal Revenue Code.

21 (c) The amount of the low-income housing tax credit that
22 may be claimed by a taxpayer as provided in subsection (b) shall



1 be fifty per cent of the applicable percentage of the qualified
2 basis of each building located in Hawaii. The applicable
3 percentage shall be calculated as provided in section 42(b) of
4 the Internal Revenue Code.

5 (d) For the purposes of this section, the determination
6 of:

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

9 (2) Eligible basis shall be made under section 42(d);

10 (3) Qualified low-income housing project shall be made
11 under section 42(g);

12 (4) Recapture of credit shall be made under section 42(j),
13 except that the tax for the taxable year shall be
14 increased under section 42(j)(1) only with respect to
15 credits that were used to reduce state income taxes;

16 and

17 (5) Application of at-risk rules shall be made under
18 section 42(k);

19 of the Internal Revenue Code.

20 (e) As provided in section 42(e), rehabilitation
21 expenditures shall be treated as a separate new building and
22 their treatment under this section shall be the same as in



1 section 42(e). The definitions and special rules relating to
2 credit period in section 42(f) and the definitions and special
3 rules in section 42(i) shall be operative for the purposes of
4 this section.

5 (f) The state housing credit ceiling under section 42(h)
6 shall be zero for the calendar year immediately following the
7 expiration of the federal low-income housing tax credit program
8 and for any calendar year thereafter, except for the carryover
9 of any credit ceiling amount for certain projects in progress
10 which, at the time of the federal expiration, meet the
11 requirements of section 42.

12 (g) The credit allowed under this section shall be claimed
13 against net income tax liability for the taxable year. For the
14 purpose of deducting this tax credit, net income tax liability
15 means net income tax liability reduced by all other credits
16 allowed the taxpayer under this chapter.

17 A tax credit under this section which exceeds the
18 taxpayer's income tax liability may be used as a credit against
19 the taxpayer's income tax liability in subsequent years until
20 exhausted. All claims for a tax credit under this section must
21 be filed on or before the end of the twelfth month following the
22 close of the taxable year for which the credit may be claimed.



1 Failure to properly and timely claim the credit shall constitute
2 a waiver of the right to claim the credit. A taxpayer may claim
3 a credit under this section only if the building or project is a
4 qualified low-income housing building or a qualified low-income
5 housing project under section 42 of the Internal Revenue Code.

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

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

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



1 SECTION 4. The director of finance is authorized to issue
 2 general obligation bonds in the sum of \$ or so much
 3 thereof as may be necessary and the same sum or so much thereof
 4 as may be necessary is appropriated for fiscal year 2011-2012
 5 for the purpose of funding low-income housing tax credit loans
 6 made pursuant to section 201H- , Hawaii Revised Statutes.

7 SECTION 5. The appropriation made for the capital
 8 improvement project authorized by this Act shall not lapse at
 9 the end of the fiscal biennium for which the appropriation is
 10 made; provided that all moneys from the appropriation
 11 unencumbered as of June 30, 2014, shall lapse as of that date.

12 SECTION 6. The sums appropriated shall be expended by the
 13 Hawaii housing finance and development corporation for the
 14 purposes of this Act.

15 SECTION 7. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act, upon its approval, shall apply to
 18 taxable years beginning after December 31, 2010.

19

INTRODUCED BY: Carol Fukunaga
~~Fransanne drum Oakland~~
~~Rosalyn de Bob~~ ~~Malama J. Kim~~

Report Title:

Construction Task Force (2010); Low-Income Housing; Tax Credit Loans; 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 GO bonds to fund loans.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

