

LATE

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**SENATE COMMITTEES ON WATER, LAND & HOUSING AND
HUMAN SERVICES**

**TESTIMONY OF THE DEPARTMENT OF TAXATION
REGARDING SB 768
RELATING TO LOW-INCOME HOUSING**

*****WRITTEN TESTIMONY ONLY*****

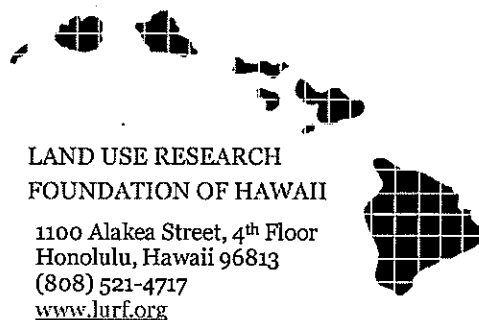
TESTIFIER: FREDERICK D. PABLO, INTERIM DIRECTOR OF
TAXATION (OR DESIGNEE)
COMMITTEE: WLH-HMS
DATE: FEBRUARY 8, 2011
TIME: 2:30PM
POSITION: DEFER TO HHFDC

This measure 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 and authorizes the issuance of general obligation bonds to fund the loans.

The Department of Taxation defers to the Hawaii Housing Finance and Development Corporation on the merits of this legislation.

This legislation is not projected to impact general fund revenues because the grant program is in lieu of tax credits that would have otherwise been claimed.

LATE 2/8
2:30



February 3, 2011

Senator Donovan Dela Cruz, Chair and Senator Malama Soloman, Vice Chair
Committee on Water Land and Housing
Senator Chun Oakland, Chair and Senator Les Ihara, Vice Chair
Committee on Human Services

Testimony of the Land Use Research Foundation of Hawaii

Support of SB 768, Relating to the Low-Income Housing. (Low-income housing tax credit loans in lieu of low income housing tax credits to be administered by Hawaii Housing Finance and Development Corporation also authorizes GO bonds.)

Tuesday, February 8, 2011 at 2:30 p.m. in CR 016

My name is David Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulation.

LURF **strongly supports SB 768**, which will establish a program for granting state low-income housing tax credit (LIHTC) loans in lieu of state low-income housing tax credit allocations. This proposed program is an important step that will help our local economy by using our existing resources more effectively and allowing many stalled affordable housing projects to commence construction. This bill will also increase funding for rental housing projects without increasing the State's burden, which will result in getting more people into homes. **The construction of low-income housing construction projects is an important component in helping stimulate the local economy, and will also create an important housing resource for our community.**

SB 768. The purpose of this is to support the findings of the small business working group and the recommendations proposed by the construction industry task force by establishing a low-income housing tax credit loan program. This program would be administered by the Hawaii Housing Finance and Development Corporation (HHFDC) and will also authorize the issuance of general obligation (GO) bonds to fund the loans. This bill would be applicable to taxable years after December 31, 2010.

Background. In 2009 Senate Concurrent Resolution No. 132, S.D. 1 (2009) (SCR 132, SD1), established a Construction Industry Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the SCR 132, SD1 the Task Force developed a series of proposals for state actions to preserve and create new jobs in the local construction industry.

Similarly, in 2010 the Senate Committee on Economic Development and Technology and the House Committee on Economic Revitalization, Business and Military Affairs convened an informal small business discussion group to address the most critical issues facing the small business sectors. This bill is a product of that working group which included representatives from the business sector, construction and trade industries, food and restaurant industries, retailing, the science and technology sector, the commercial transportation industry and interested stakeholders.

LURF's Position. LURF **supports** SB 768 because it provides needed flexibility to stimulate the development and construction of stalled affordable rental housing projects for families at or below 60 percent of the area median income. The tax credit exchange program proposed in SB 768 would allow eligible affordable rental housing developers to trade in competitive, 9% State Low-Income Housing Tax Credits (LIHTCs) and 4% non-competitive tax credit for a loan. The State LIHTC loan mechanism proposed in this bill is consistent with similar provisions in the American Recovery and Reinvestment Act of 2009 which are intended to assist projects receiving competitive Federal LIHTCs. LURF supports creation of this loan option for the State credit to provide developers with sufficient equity to finance construction of affordable rental housing.

As we all are aware, the lack of affordable housing remains a significant problem affecting our community. Working families are finding it harder to purchase or rent a home. Legislative changes, like SB 768 are needed to assist with increasing the supply of affordable housing and the reduction of regulatory barriers to support the production of affordable housing. Thank you for the opportunity to express our **strong support for SB 768.**

TAXBILLSERVICE

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SUBJECT: INCOME, Low-income housing credit loan program

BILL NUMBER: SB 768

INTRODUCED BY: Fukunaga, Chun Oakland and 3 Democrats

BRIEF SUMMARY: Amends HRS section 235-110.8 to provide that a qualified low-income building that has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act (ARRA) of 2009, (Public Law 111-5), shall also be eligible for the low-income housing credit in the amount of 50% of the amount of the federal low-income housing tax credit that would have been allocated to the qualified low-income building pursuant to IRC section 42(b).

In lieu of the low-income housing tax credit, the owner of a qualified low-income building that has been awarded federal credits under IRC section 42(h)(3)(C) or a subaward under section 1602 of the ARRA, may request a loan under HRS section 201H and shall not be eligible for the low-income housing tax credit.

Adds a new section to HRS chapter 201H to allow the Hawaii Housing Finance and Development Corporation (HHFDC) to provide a no-interest, low-income housing tax credit loan to an owner of a qualified low-income building that has been awarded federal tax credits that are subject to the state housing tax credit ceiling under IRC section 42(h)(3)(C) or a subaward under section 1602 of the ARRA. The loan shall be equal to ___% of the cash value of the amount of the low-income housing tax credit for each taxable year in the 10-year credit period discounted to present-day value and capitalized at the rate of interest on the taxable general obligation bonds used to fund the loan. Allows the HHFDC to impose conditions or restrictions on the low-housing tax credit loans.

Authorizes the director of finance to issue general obligation bonds in the sum of \$_____ for fiscal 2012 for the purpose of low-income housing tax credit loans. The appropriation made for the low-income housing tax credit loans shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2014 shall lapse as of that date.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: Under section 1602 of the American Recovery and Reinvestment Tax Act of 2009 (ARRA)(P.L. 111-5), state housing credit agencies are eligible to receive section 1602 grants for low-income housing projects in lieu of low-income housing credits under IRC section 42 for 2009. Under Section 1602, state housing finance agencies may apply to the U. S. Treasury for an exchange of returned or unused FY 2007 and 2008 tax credits, as well as 40% of each state's housing finance agency's 2009 tax credit ceiling and these funds may be subawarded by a housing finance agency to properties eligible for a tax credit but that have been unsuccessful in finding investors. While Section 1602 funds must have been spent on project costs by December 31, 2010, it is questionable whether this

program will be extended.

While the federal low-income housing tax credit was monetized, that is cash grants are being given out for the volume capped 9% credits, this measure proposes to provide a low-interest loan equal to an unspecified percentage of the cash value of the state credit. The move at the federal level to monetize this credit was spurred by the freeze of the credit markets and the lack of investors interested in buying the low-income housing tax credit. At the state level, interest in the state counterpart of the low-income housing tax credit waned when other more generous credits, like the high technology investment credits, became available. Thus, this measure attempts to provide a state subsidy in the form of a loan program equal to an unspecified amount of the cash value of the credits.

Unfortunately, based on the proposal to renovate the state's largest housing project, Kuhio Park Terrace, most of the state's volume capped low-income housing tax credits will be utilized by that project for the next eight to ten years. Thus, many of the smaller developers of low-income housing in the state who relied on those credits to make the numbers pencil out for their projects will basically be out of business for the next ten years. Even if the more readily available 4% low-income housing tax credits are used, it is highly unlikely there will be any market for those credits in the near future. Thus, the loans proposed by this measure may go toward the renovation of Kuhio Park Terrace rather than developing privately held affordable housing.

While this is just one incentive to encourage developers to build affordable housing, consideration should be given to a number of strategies including debt financing, partnerships with financial institutions who could then turn around and sell the credits, and the use of federal private activity bonds. 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.

Finally, it should be noted that while it has been difficult to sell the state tax credits because of the freeze in the credit markets, the state low-income housing tax credits are also being by-passed because they must now compete with more generous credits such as the credit for investment in qualified high technology businesses. Thus, the incentive for affordable housing is being thwarted by those other generous credits. Apparently, lawmakers believe that they can blunt this impact by providing the loans proposed in this measure. Unfortunately, they are just that, loans which must be repaid at sometime in the future unlike the credits which can be sold to investors in return for hard cash. This contortion is a result of the generous tax incentives handed out for other targeted business activities. Hopefully lawmakers won't make the same mistake in the future.

Digested 2/7/11