

JAN 25 2012

A BILL FOR AN ACT

RELATING TO NEW MARKETS TAX CREDITS.

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

1 SECTION 1. The legislature finds that the business
2 community, nonprofit organizations, and other entrepreneurs
3 require a functional, service-oriented agency that is readily
4 available to provide business counseling, financial backing, and
5 general support to foster real community-based economic
6 development for the various products and services demonstrating
7 and embracing Hawaii's diversified economy.

8 The Hawaii community-based economic development technical
9 and financial assistance program in the department of business,
10 economic development, and tourism, was established for this
11 purpose. The program was established by the legislature in Act
12 111, Session Laws of Hawaii 1990, and codified as chapter 210D,
13 Hawaii Revised Statutes, to provide financial assistance to
14 community-based businesses and enterprises through low-interest
15 loans and grants to qualifying applicants.

16 There are various programs provided by the federal
17 government, nonprofits, and foundations, and there are
18 opportunities provided by public-private partnerships that



1 further these goals. These programs and partnerships can be
2 used to provide a portion of the funding needed by economic
3 development projects. The project funding provided by Hawaii
4 will be made more efficient and more effective if it is provided
5 in the form most compatible with such programs and in the manner
6 most suitable to optimize all sources of funding. To achieve
7 this, some modifications are necessary to the types of financial
8 products offered by the community-based economic development
9 program and the manner in which those products are provided
10 along with an increase in the total amount that may be provided
11 for an individual project and borrower.

12 The purpose of this Act is to:

- 13 (1) Add the definition of "community development entity"
14 to allow financing to be provided by Hawaii through a
15 structure that facilitates the use of federal new
16 markets tax credits;
- 17 (2) Expand the methods of delivering funding to a project
18 by providing loans to capitalize a community
19 development entity and to provide guarantees or other
20 credit enhancements that will facilitate private
21 lenders' participation in new markets tax credit
22 financing; and



1 (3) Adjust loan maximums and establish guarantees or
2 credit enhancements to reflect current available
3 funding and facilitate monetization of existing
4 project assets for purposes of new markets tax credit
5 financing.

6 SECTION 2. Section 210D-2, Hawaii Revised Statutes, is
7 amended by adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Community development entity" has the same meaning as in
10 section 45D(c)(1) of the Internal Revenue Code of 1986, as
11 amended."

12 SECTION 3. Section 210D-8, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§210D-8 Powers and duties.** The department shall have the
15 necessary powers to carry out the purposes of this chapter,
16 including the following:

17 (1) With advice from the council, prescribe the
18 qualifications for eligibility of applicants for
19 loans, ~~[and]~~ grants~~+~~, guarantees, and credit
20 enhancements;



- 1 (2) With advice from the council, establish preferences
2 and priorities in determining eligibility for
3 financial assistance;
- 4 (3) Establish the conditions, consistent with the purpose
5 of this chapter, for the awarding of financial
6 assistance;
- 7 (4) Provide for inspection at reasonable hours of
8 facilities, books, and records of a community-based
9 organization that has applied for or has been awarded
10 financial assistance and require the submission of
11 progress and final reports;
- 12 (5) Provide loans, [and] grants, guarantees, and credit
13 enhancements for community-based economic development
14 activities and community-based enterprises for
15 purposes consistent with this chapter;
- 16 (6) Provide, participate in, and acquire loans used to
17 capitalize entities that make financing available for
18 activities and enterprises, including community
19 development entities;
- 20 ~~[-6-]~~ (7) Determine the necessity for and the extent of
21 security required ~~[in a loan,]~~ for loans, guarantees,
22 and credit enhancements;



- 1 ~~[(7)]~~ (8) Prescribe and provide appropriate management
2 counseling and monitoring of business activities;
- 3 ~~[(8)]~~ (9) Administer the Hawaii community-based economic
4 development revolving fund;
- 5 ~~[(9)]~~ (10) Include in its budget for subsequent fiscal
6 periods amounts necessary to effectuate the purposes
7 of this chapter;
- 8 ~~[(10)]~~ (11) Participate in loans made to qualified persons
9 by private lenders;
- 10 ~~[(11)]~~ (12) Establish interest rates chargeable by the State
11 for ~~[direct and participation]~~ loans; ~~[and]~~
- 12 (13) Establish interest rates, fees, and charges chargeable
13 by the State for guarantees and credit enhancements;
14 and
- 15 ~~[(12)]~~ (14) Adopt rules pursuant to chapter 91 to implement
16 this chapter."

17 SECTION 4. Section 210D-9, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§210D-9 Loans ~~[; limitation and terms]~~. Loans made under
20 this chapter shall be ~~[for the purposes and in accordance with~~
21 ~~the terms specified in paragraphs (1) and (2) and shall be made~~



1 ~~only to applicants who meet the eligibility requirements~~
2 ~~specified therein.] limited to the following:~~

3 (1) Community-based enterprise establishment and
4 improvement loans may be made to provide for:

5 (A) The start-up costs, purchase or improvement of a
6 community-based enterprise or working capital;
7 and

8 (B) The purchase, construction, or improvement of
9 facilities; ~~[and]~~

10 (2) Operating loans may be made to carry on and improve an
11 existing enterprise, including:

12 (A) The purchase of equipment; and

13 (B) The payment of production and marketing expenses
14 including materials, labor, and services ~~[-]~~; or

15 (3) Loans to entities that capitalize community
16 development entities that use the proceeds to make
17 loans to borrowers.

18 ~~[The loans shall be for an amount not to exceed \$250,000~~
19 ~~and for a term not to exceed ten years.] "~~

20 SECTION 5. Section 210D-10, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§210D-10 Terms and limitations of loans~~[-]~~, guarantees,
2 and credit enhancements. ~~[Loans shall be made to qualified~~
3 ~~applicants with the]~~ The following terms and conditions~~[-]~~ shall
4 apply:

5 (1) The amount of the outstanding balance on all loans,
6 guarantees, and other credit enhancements issued under
7 this chapter to any one applicant at any one time
8 shall not exceed ~~[\$250,000,]~~ \$5,000,000.

9 (2) The maximum term of a loan, guarantee, or credit
10 enhancement shall not exceed ten years;

11 (3) Each loan shall bear simple interest at a rate of not
12 less than three and not more than six per cent a year,
13 depending on the nature of the loan; ~~[and]~~

14 (4) Interest rates for guarantees and credit enhancements
15 shall not be more than the market rate for similar
16 instruments; and

17 ~~[(4)]~~ (5) The commencement date for the repayment of the
18 first installment on principal and interest of each
19 loan may be deferred by the director of business,
20 economic development, and tourism for a period not to
21 exceed two years."



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

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S.B. NO. 2895

Report Title:

Economic Development; New Markets Tax Credits; Loans; Community Development Entity

Description:

Expands methods for delivering funding to a community development entity by allowing guarantees and credit enhancements. Increases total maximum funding amounts from \$250,000 to \$5,000,000.

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