

NEIL ABERCROMBIE
GOVERNOR



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HAWAII PUBLIC HOUSING AUTHORITY
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BARBARA E. ARASHIRO
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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEES ON HOUSING

February 14, 2013 3:30 P.M.
Room 308, Hawaii State Capitol

In consideration of
House Bill No. 514, House Draft 1
Relating to Public Housing

Honorable Chair Luke and Members of the House Committee on Finance, thank you for the opportunity to provide you with comments regarding House Bill (H.B.) No. 514 House Draft (HD) 1, relating to public housing.

The Hawaii Public Housing Authority (HPHA) supports the enactment of this measure, with amendments, which would move the State income tax and obligations exemption for public housing agencies from the laws governing the Hawaii Housing Finance and Development Corporation (HHFDC) to the laws governing the HPHA.

Section 11 of the Housing Act of 1937, as amended (42 U.S.C. § 1437i) provides for public housing agencies (PHAs) to issue obligations secured by a variety of U.S. Department of Housing and Urban Development (HUD) funds to finance the development of low-income housing projects. It further provides that any such obligations, including interest thereon, that are issued by a PHA, and any income derived by the PHA from such projects, are exempt from all taxation imposed by the United States. Section 201H-37, Hawaii Revised Statutes (HRS), provides that such obligations and income should also be exempt from all taxation imposed by the State.

However, the statute is misplaced and was left in chapter 201H when the HHFDC and HPHA bifurcated on July 5, 2005 with Act 196. As the sole PHA in the State of Hawaii, any such statutory provision relating to PHA financing obligations should be provided in the HPHA's chapter 356D, HRS. As such, this proposal is a housekeeping measure to move this statute to the correct chapter.

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However, after hearing the concerns of the HHFDC, we would like to respectfully request that Section 2 be removed from the bill entirely, and defer any questions regarding the amendment to the HHFDC.

The HPHA appreciates the opportunity to provide the House Committee on Finance with the agency's position regarding H.B. No. 514 HD1. We respectfully request the Committees to pass this measure favorably, and we thank you very much for your dedicated support.



STATE OF HAWAII

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IN REPLY REFER TO:

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE

February 14, 2013 at 3:30 p.m.
State Capitol, Room 308

In consideration of
H.B. 514, H.D. 1
RELATING TO PUBLIC HOUSING.

The HHFDC **supports H.B. 514, H.D. 1 with a requested amendment.** Although HHFDC supports the Hawaii Public Housing Authority's housekeeping measure, we are concerned about potential issues raised in the Tax Foundation of Hawaii's testimony on the bill before the House Committee on Housing.

The Tax Foundation's testimony raised concerns that deleting the language currently contained in section 201H-37, HRS, and moving it to the Hawaii Public Housing Authority's HRS Chapter, Chapter 356D, HRS, may unintentionally impact the tax liability for non-profit or for-profit low income housing organizations who may meet the Federal definition of a "public housing agency." HHFDC has discussed this matter with the U.S. Department of Housing and Urban Development's local office and we have not been able to rule out these concerns. Further legal research may be needed to be certain of all of the potential implications.

Therefore, in order to avoid the possibility of unintentional harm to any low income housing organizations, HHFDC respectfully requests that the Committee amend H.B. 514, H.D. 1 by **deleting Section 2 of the bill.**

Thank you for the opportunity to testify.

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SUBJECT: MISCELLANEOUS, Tax exemption for public housing

BILL NUMBER: HB 514, HD-1

INTRODUCED BY: House Committee on Housing

BRIEF SUMMARY: Moves the language delineating the state tax exemption on income and obligations from HRS section 201H-37 into HRS chapter 356D.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: SB 1117/HB 886 are administration measures submitted by the department of human services - HMS-21(13). These measures would move the state income tax and obligation exemption for public housing agencies from the jurisdiction of the Hawaii housing and finance development corporation (HHFDC) to the Hawaii public housing authority (HPHA). Act 196, SLH 2005, required the HHFDC to prepare an implementation plan to reorganize the state's housing functions and Act 180, SLH 2006, created two separate housing agencies - the HHFDC and the HPHA.

On the surface, this proposal would seem to align the income tax exemption and obligation exemption for "public housing agencies" and place it under the chapter establishing the state's public housing agency called the "Hawaii Public Housing Authority." However, it should be remembered that this exemption is established under federal law as part of Section 3(6) of the United States Housing Act of 1937. A review of that law and a discussion with local HUD officials revealed that a "public housing agency" does not necessarily have to be a state or local government agency, that, in fact, a "public housing agency" can be an organization that meets the HUD guidelines in providing safe, decent affordable housing to the low-income population of any community.

Should this proposal be adopted, then the exemption provided for any "public housing agency" would only apply to the state's Hawaii Public Housing Authority. That would restrict any future possibility of a private for-profit or nonprofit organization from producing affordable housing to the disadvantaged in the community. The income tax exemption and obligation exemption authority should remain under the oversight of the Hawaii Housing and Finance Development Corporation which already oversees the other financing tools available to provide subsidized housing in Hawaii including the low-income housing tax credit program and the issuance of the federal private activity bonds used for housing.

Digested 2/12/13