
A BILL FOR AN ACT

RELATING TO NEW MARKET 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



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

13 The purpose of this Act is to:

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



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

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

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

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

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

19 (1) With advice from the council, prescribe the
 20 qualifications for eligibility of applicants for



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



- 1 [~~(6)~~] (7) Determine the necessity for and the extent of
- 2 security required [~~in a loan,~~] for loans, guarantees,
- 3 and credit enhancements;
- 4 [~~(7)~~] (8) Prescribe and provide appropriate management
- 5 counseling and monitoring of business activities;
- 6 [~~(8)~~] (9) Administer the Hawaii community-based economic
- 7 development revolving fund;
- 8 [~~(9)~~] (10) Include in its budget for subsequent fiscal
- 9 periods amounts necessary to effectuate the purposes
- 10 of this chapter;
- 11 [~~(10)~~] (11) Participate in loans made to qualified persons
- 12 by private lenders;
- 13 [~~(11)~~] (12) Establish interest rates chargeable by the State
- 14 for [~~direct and participation~~] loans; [and]
- 15 (13) Establish interest rates, fees, and charges chargeable
- 16 by the State for guarantees and credit enhancements;
- 17 and
- 18 [~~(12)~~] (14) Adopt rules pursuant to chapter 91 to implement
- 19 this chapter."

20 SECTION 4. Section 210D-9, Hawaii Revised Statutes, is

21 amended to read as follows:



1 "~~§210D-9 Loans [; limitation and terms]~~. Loans made under
2 this chapter shall be [~~for the purposes and in accordance with~~
3 ~~the terms specified in paragraphs (1) and (2) and shall be made~~
4 ~~only to applicants who meet the eligibility requirements~~
5 ~~specified therein.~~] limited to the following:

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

8 (A) The start-up costs, purchase or improvement of a
9 community-based enterprise or working capital;
10 and

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

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

15 (A) The purchase of equipment; and

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

18 (3) Loans to entities that capitalize community
19 development entities that use the proceeds to make
20 loans to borrowers.



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

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

5 "§210D-10 Terms and limitations of loans[-], guarantees,
6 and credit enhancements. ~~[Loans shall be made to qualified~~
7 ~~applicants with the]~~ The following terms and conditions[+] shall
8 apply:

- 9 (1) The amount of the outstanding balance on all loans,
10 guarantees, and other credit enhancements issued under
11 this chapter to any one applicant at any one time
12 shall not exceed ~~[\$250,000,]~~ \$5,000,000;
- 13 (2) The maximum term of a loan, guarantee, or credit
14 enhancement shall not exceed ten years;
- 15 (3) Each loan shall bear simple interest at a rate of not
16 less than three and not more than six per cent a year,
17 depending on the nature of the loan; ~~[and]~~
- 18 (4) Interest rates for guarantees and credit enhancements
19 shall not be more than the market rate for similar
20 instruments; and



1 [~~(4)~~] (5) The commencement date for the repayment of the
2 first installment on principal and interest of each
3 loan may be deferred by the director of business,
4 economic development, and tourism for a period not to
5 exceed two years."

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

8 SECTION 7. This Act shall take effect on February 19,
9 2022.



Report Title:

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

Description:

Expands methods for the delivery of funding by the community-based economic development technical and financial assistance by allowing guarantees and credit enhancements, as well as providing framework for the capitalization of Community Development Entity. Increases total maximum funding amounts from \$250,000 to \$5,000,000. (HB1397 HD1)

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