
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 201H-15, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:
3 "(a) The corporation is designated as a state housing
4 credit agency to carry out section 42(h) (with respect to
5 limitation on aggregate credit allowable with respect to a
6 project located in a state) of the Internal Revenue Code of
7 1986, as amended. As a state housing credit agency, the
8 corporation shall determine the [~~eligibility~~] eligible basis for
9 a qualified low-income building, make the allocation of housing
10 credit dollar amounts within the State, and determine the
11 portion of the State's housing credit ceiling set aside for
12 projects involving qualified nonprofit organizations. The
13 corporation shall file any certifications and annual reports
14 required by section 42 (with respect to low-income housing
15 credit) of the Internal Revenue Code of 1986, as amended.
16 (b) The state aggregate housing credit dollar amount shall
17 be allocated annually as required by section 42 of the Internal



1 Revenue Code of 1986, as amended, by the corporation in an
2 amount equal to [~~\$1.25~~] \$1.75 multiplied by the state population
3 in the calendar year or such greater or lesser amount as
4 provided by section 42(h) of the Internal Revenue Code of 1986,
5 as amended."

6 SECTION 2. Section 235-110.8, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsections (a) through (e) to read:

9 "(a) Section 42 (with respect to low-income housing
10 credit) of the Internal Revenue Code shall be operative for the
11 purposes of this chapter as provided in this section. [A
12 ~~taxpayer owning a qualified low-income building who has been~~
13 ~~awarded a subaward under section 1602 of the American Recovery~~
14 ~~and Reinvestment Act of 2009, Public Law 111-5, shall also be~~
15 ~~eligible for the credit provided in this section.]~~

16 (b) Each taxpayer that:

17 (1) Owns an interest in a qualified low-income housing
18 building or qualified low-income housing project
19 located in the State;

20 (2) Is subject to the tax imposed by this chapter[~~, who~~
21 ~~has~~]; and



1 (3) Has filed a net income tax return for a taxable year,
2 may claim a low-income housing tax credit against the taxpayer's
3 net income tax liability. The amount of the credit shall be
4 deductible from the taxpayer's net income tax liability, if any,
5 imposed by this chapter for the taxable year in which the credit
6 is properly claimed on a timely basis. A credit under this
7 section may be claimed whether or not the taxpayer claims a
8 federal low-income housing tax credit pursuant to section 42 of
9 the Internal Revenue Code.

10 (c) The amount of the low-income housing tax credit that
11 may be claimed by a taxpayer as provided in subsection (b) shall
12 be as follows:

13 (1) With respect to buildings that are not to be financed
14 with tax-exempt bonds, fifty per cent of the
15 applicable percentage of the qualified basis of each
16 building located in Hawaii[-]; and

17 (2) With respect to buildings that are to be financed with
18 tax-exempt bonds, one hundred per cent of the
19 applicable percentage of the qualified basis of each
20 building located in Hawaii.



1 The applicable percentage shall be calculated as provided in
2 section 42(b) of the Internal Revenue Code.

3 (d) ~~[If a subaward under section 1602 of the American~~
4 ~~Recovery and Reinvestment Act of 2009, Public Law 111-5, has~~
5 ~~been issued for a qualified low income building, the amount of~~
6 ~~the low income housing tax credits that may be claimed by a~~
7 ~~taxpayer as provided in subsection (b) shall be equal to fifty~~
8 ~~per cent of the amount of the federal low income housing tax~~
9 ~~credits that would have been allocated to the qualified low-~~
10 ~~income building pursuant to section 42(b) of the Internal~~
11 ~~Revenue Code by the corporation had a subaward not been awarded~~
12 ~~with respect to the qualified low income building.] In the case~~
13 ~~of a partnership, S corporation, estate, or trust, the tax~~
14 ~~credit shall be determined at the entity level. Distribution~~
15 ~~and share of credit shall be determined pursuant to section~~
16 ~~704(b) of the Internal Revenue Code.~~

17 (e) For the purposes of this section, the determination
18 of:

- 19 (1) Qualified basis and qualified low-income building
20 shall be made under section 42(c);
- 21 (2) Eligible basis shall be made under section 42(d);



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- 1 (3) Qualified low-income housing project shall be made
2 under section 42(g); and
- 3 (4) Recapture of credit shall be made under section 42(j),
4 except that the tax for the taxable year shall be
5 increased under section 42(j)(1) only with respect to
6 credits that were used to reduce state income taxes;
7 [and
- 8 ~~(5) Application of at risk rules shall be made under~~
9 ~~section 42(k);]~~

10 of the Internal Revenue Code."

11 2. By amending subsections (h) and (i) to read:

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

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



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

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

10 (i) In lieu of the credit awarded under this section for a
11 qualified low-income building that has been awarded federal
12 credits that are subject to the state housing credit ceiling
13 under section 42(h)(3)(C) of the Internal Revenue Code~~[7]~~ or
14 federal credits that are allocated pursuant to section 42(h)(4)
15 of the Internal Revenue Code, ~~[or a subaward under section 1602~~
16 ~~of the American Recovery and Reinvestment Act of 2009, Public~~
17 ~~Law 111-5,]~~ the taxpayer owning the qualified low-income
18 building may make a request to the corporation for a loan under
19 section 201H-86. If the taxpayer elects to receive the loan
20 pursuant to section 201H-86, the taxpayer shall not be eligible
21 for the credit under this section."



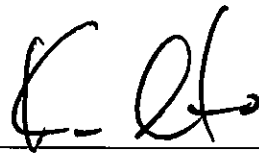
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1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2017;
4 provided that section 2 shall apply to taxable years beginning
5 after December 31, 2016.

6

INTRODUCED BY: _____



Mark F. Hark



JAN 27 2016



H.B. NO. 2744

Report Title:

Low-income Housing Tax Credit; Clarification on Application of Credit

Description:

Amends the low-income housing tax credit by removing provisions related to subawards issued under section 1602 of the American Recovery and Reinvestment Act of 2009. Clarifies the allocation of tax credits for pass-through entities. Bases the amount of the tax credit on whether or not a building is financed by tax-exempt bonds. Removes reference to Internal Revenue Code sections regarding the application of at-risk rules and limitation of passive activity losses and credits.

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