

JAN 27 2016

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**A BILL FOR AN ACT**

RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

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

1           SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§235-110.8 Low-income housing tax credit.** (a) [~~Section~~]  
4 As modified herein, section 42 (with respect to low-income  
5 housing credit) of the Internal Revenue Code shall be operative  
6 for the purposes of this chapter as provided in this section. A  
7 taxpayer owning a qualified low-income building who has been  
8 awarded a subaward under section 1602 of the American Recovery  
9 and Reinvestment Act of 2009, Public Law 111-5, shall also be  
10 eligible for the credit provided in this section.

11           (b) Each taxpayer subject to the tax imposed by this  
12 chapter, who has filed a net income tax return for a taxable  
13 year may claim a low-income housing tax credit against the  
14 taxpayer's net income tax liability. The amount of the credit  
15 shall be deductible from the taxpayer's net income tax  
16 liability, if any, imposed by this chapter for the taxable year  
17 in which the credit is properly claimed on a timely basis. A  
18 credit under this section may be claimed whether or not the

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1 taxpayer claims a federal low-income housing tax credit pursuant  
2 to section 42 of the Internal Revenue Code.

3 (c) [The] For any qualified low-income building that  
4 receives an allocation prior to January 1, 2017, the amount of  
5 the low-income housing tax credit that may be claimed by a  
6 taxpayer as provided in subsection (b) shall be fifty per cent  
7 of the applicable percentage of the qualified basis of each  
8 building located in Hawaii. The applicable percentage shall be  
9 calculated as provided in section 42(b) of the Internal Revenue  
10 Code.

11 (d) For any qualified low-income building that receives an  
12 allocation after December 31, 2016, the amount of the low-income  
13 housing tax credits that may be claimed by a taxpayer as  
14 provided in subsection (b) shall be:

15 (1) For the first five years, equal to the amount of the  
16 federal low-income housing tax credits that have been  
17 allocated to the qualified low-income building  
18 pursuant to section 42(b) of the Internal Revenue Code  
19 by the corporation, provided that, if in any year the  
20 aggregate amount of credits under this subsection  
21 would be such that it would exceed the amount of state  
22 credits allocated by the corporation for the qualified

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1           low-income building, the credits allowed for that year  
2           shall be limited to such amount necessary to bring the  
3           total of such state credits (including the current  
4           year state credits) to the full amount of state  
5           credits allocated to the qualified low-income building  
6           by the corporation;

7           (2) For the sixth year, zero, except that, if, and only  
8           if, the amount of credits allowed for the first five  
9           years is less than the full amount of state credits  
10           allocated by the corporation for the qualified low-  
11           income building, an amount necessary to bring the  
12           amount of the state credits to the full amount  
13           allocated by the corporation for the qualified low-  
14           income building; and

15           (3) For any remaining years, zero.

16           [~~(d)~~] (e) If a subaward under section 1602 of the American  
17 Recovery and Reinvestment Act of 2009, Public Law 111-5, has  
18 been issued for a qualified low-income building, the amount of  
19 the low-income housing tax credits that may be claimed by a  
20 taxpayer as provided in subsection (b) shall be equal to fifty  
21 per cent of the amount of the federal low-income housing tax  
22 credits that would have been allocated to the qualified low-

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1 income building pursuant to section 42(b) of the Internal  
2 Revenue Code by the corporation had a subaward not been awarded  
3 with respect to the qualified low-income building.

4 [~~(e)~~] (f) For the purposes of this section, the  
5 determination of:

- 6 (1) Qualified basis and qualified low-income building  
7 shall be made under section 42(c);  
8 (2) Eligible basis shall be made under section 42(d);  
9 (3) Qualified low-income housing project shall be made  
10 under section 42(g);  
11 (4) Recapture of credit shall be made under section 42(j),  
12 except that the tax for the taxable year shall be  
13 increased under section 42(j)(1) only with respect to  
14 credits that were used to reduce state income taxes;  
15 and  
16 (5) Application of at-risk rules shall be made under  
17 section 42(k);

18 of the Internal Revenue Code.

19 [~~(f)~~] (g) As provided in section 42(e), rehabilitation  
20 expenditures shall be treated as a separate new building and  
21 their treatment under this section shall be the same as in

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1 section 42(e). The definitions and special rules in section  
2 42(i) shall be operative for the purposes of this section.

3 [~~(g)~~] (h) The state housing credit ceiling under section  
4 42(h) shall be zero for the calendar year immediately following  
5 the expiration of the federal low-income housing tax credit  
6 program and for any calendar year thereafter, except for the  
7 carryover of any credit ceiling amount for certain projects in  
8 progress which, at the time of the federal expiration, meet the  
9 requirements of section 42.

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

15 A tax credit under this section that exceeds the taxpayer's  
16 income tax liability may be used as a credit against the  
17 taxpayer's income tax liability in subsequent years until  
18 exhausted. All claims for a tax credit under this section shall  
19 be filed on or before the end of the twelfth month following the  
20 close of the taxable year for which the credit may be  
21 claimed. Failure to properly and timely claim the credit shall  
22 constitute a waiver of the right to claim the credit. A

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1 taxpayer may claim a credit under this section only if the  
2 building or project is a qualified low-income housing building  
3 or a qualified low-income housing project under section 42 of  
4 the Internal Revenue Code.

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

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

20 [~~(j)~~] (k) The director of taxation may adopt any rules  
21 under chapter 91 and forms necessary to carry out this section."

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1 SECTION 2. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act, upon its approval, shall take effect  
7 on January 1, 2017, and shall apply to qualified low-income  
8 buildings awarded credits after December 31, 2016.

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INTRODUCED BY:

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11

BY REQUEST

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**Report Title:**

Low-Income Housing Tax Credits

**Description:**

Increases funding for affordable rental housing development by making the State Low-Income Housing Tax Credit more valuable.  
Reduces State Tax Credit period from ten to five years.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

PURPOSE: To increase the value, and therefore the amount of equity generated by State Low-Income Housing Tax Credits (LIHTCs), by shortening the term over which the credits are taken from ten years to five years.

MEANS: Amend section 235-110.8, Hawaii Revised Statutes.

JUSTIFICATION: The LIHTC program promotes the development and rehabilitation of low-income rental housing at or below 60 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD). The program continues to be a powerful financing tool for affordable rental housing development.

The State LIHTC is tied to the Federal LIHTC program, and the state credit is equal to 50 percent of the federal credit. LIHTCs are currently taken over a ten-year period by the project owner. The credit is available only on the portion of the project that is set-aside for low-income tenants and may be kept by the owner-developer, or sold to qualified investors/partners to raise equity for the development of the project. The federal LIHTCs are generally worth up to 95 percent of their face value when sold to investors. However, because of the limited market for state credits, owner-developers are getting only approximately 40 cents on the dollar for the State LIHTCs.

The proposed changes to the State LIHTC should improve their value, and provide more equity to finance the development of affordable rental housing units. Shortening

the period over which State LIHTCs are taken from ten years to five years would increase the present value of the credits when sold to investors. Increasing the value of the State LIHTCs would generate more equity to finance the development of affordable rental housing projects, and make such projects easier to develop.

Impact on the public: Will promote increased development of affordable rental housing statewide.

Impact on the department and other agencies: Minimal.

GENERAL FUND: Indeterminate.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BED 160.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: January 1, 2017, and shall apply to qualified low-income buildings awarded credits after December 31, 2016.