
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 201H-15, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) The state aggregate housing credit dollar amount
4 shall be allocated annually as required by section 42 of the
5 Internal Revenue Code of 1986, as amended, by the corporation in
6 an amount equal to [~~\$1.25 multiplied by the state population in~~
7 ~~the calendar year or such greater or lesser~~] such amount [~~as~~
8 ~~provided by~~] allocated to the State under section 42(h) of the
9 Internal Revenue Code of 1986, as amended."
10 SECTION 2. Section 235-110.8, Hawaii Revised Statutes, is
11 amended to read as follows:
12 "§235-110.8 Low-income housing tax credit. (a) [~~Section~~]
13 As modified herein and in section 235-2.45(d)(4), section 42
14 (with respect to low-income housing credit) of the Internal
15 Revenue Code shall be operative for the purposes of this chapter
16 as provided in this section. A taxpayer owning a qualified low-
17 income building who has been awarded a subaward under section



1 1602 of the American Recovery and Reinvestment Act of 2009,
2 Public Law 111-5, shall also be eligible for the credit provided
3 in this section.

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

14 (c) ~~[The]~~ For any qualified low-income building that
15 receives an allocation prior to January 1, 2017, the amount of
16 the low-income housing tax credit that may be claimed by a
17 taxpayer as provided in subsection (b) shall be fifty per cent
18 of the applicable percentage of the qualified basis of each
19 building located in Hawaii. The applicable percentage shall be
20 calculated as provided in section 42(b) of the Internal Revenue
21 Code.



1 (d) For any qualified low-income building that receives an
2 allocation after December 31, 2016:

3 (1) The amount of the low-income housing tax credits that
4 may be claimed by a taxpayer as provided in subsection
5 (b) shall be:

6 (A) For the first five years, equal to the amount of
7 the federal low-income housing tax credits that
8 have been allocated to the qualified low-income
9 building pursuant to section 42(b) of the
10 Internal Revenue Code by the corporation;
11 provided that if in any year the aggregate amount
12 of credits under this paragraph would be such
13 that it would exceed the amount of state credits
14 allocated by the corporation for the qualified
15 low-income building, the credits allowed for that
16 year shall be limited to such amount necessary to
17 bring the total of such state credits (including
18 the current year state credits) to the full
19 amount of state credits allocated to the
20 qualified low-income building by the corporation;



1 (B) For the sixth year, zero, except that if and only
2 if the amount of credits allowed for the first
3 five years is less than the full amount of state
4 credits allocated by the corporation for the
5 qualified low-income building, an amount
6 necessary to bring the amount of the state
7 credits to the full amount allocated by the
8 corporation for the qualified low-income
9 building; and

10 (C) For any remaining years, zero.

11 In no event shall the total amount of state credits
12 over the ten year period exceed fifty per cent of the
13 total federal credits allocated to the qualified low-
14 income building over the ten year period; and

15 (2) If the low-income building is financed with tax-exempt
16 bonds, the amount of the low-income housing tax
17 credits that may be claimed by a taxpayer as provided
18 in subsection (b) shall be:

19 (A) For the first five years, twice the amount of the
20 federal low-income housing tax credits that have
21 been allocated to the qualified low-income



1 building pursuant to section 42(b) of the
2 Internal Revenue Code by the corporation;
3 provided that if in any year the aggregate amount
4 of credits under this paragraph would be such
5 that it would exceed the amount of state credits
6 allocated by the corporation for the qualified
7 low-income building, the credits allowed for that
8 year shall be limited to such amount necessary to
9 bring the total of such state credits (including
10 the current year state credits) to the full
11 amount of state credits allocated to the
12 qualified low-income building by the corporation;
13 (B) For the sixth year, zero, except that if and only
14 if the amount of credits allowed for the first
15 five years is less than the full amount of state
16 credits allocated by the corporation for the
17 qualified low-income building, an amount
18 necessary to bring the amount of the state
19 credits to the full amount allocated by the
20 corporation for the qualified low-income
21 building;



1 In no event shall the total amount of state credits
2 over the ten year period exceed one hundred per cent
3 of the total federal credits allocated to the
4 qualified low-income building over the ten year
5 period.

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

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

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



- 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~~
- 7 and
- 8 ~~(5) Application of at-risk rules shall be made under~~
- 9 ~~section 42(k)] ;~~

10 of the Internal Revenue Code.

11 [~~(f)~~] (g) As provided in section 42(e), rehabilitation
 12 expenditures shall be treated as a separate new building and
 13 their treatment under this section shall be the same as in
 14 section 42(e). The definitions and special rules relating to
 15 credit period in section 42(f) and the definitions and special
 16 rules in section 42(i) shall be operative for the purposes of
 17 this section.

18 [~~(g)~~] (h) The state housing credit ceiling under section
 19 42(h) shall be zero for the calendar year immediately following
 20 the expiration of the federal low-income housing tax credit
 21 program and for any calendar year thereafter, except for the



1 carryover of any credit ceiling amount for certain projects in
2 progress which, at the time of the federal expiration, meet the
3 requirements of section 42.

4 ~~[(h)]~~ (i) The credit allowed under this section shall be
5 claimed against net income tax liability for the taxable year.
6 For the purpose of deducting this tax credit, net income tax
7 liability means net income tax liability reduced by all other
8 credits allowed the taxpayer under this chapter.

9 A tax credit under this section that exceeds the taxpayer's
10 income tax liability may be used as a credit against the
11 taxpayer's income tax liability in subsequent years until
12 exhausted. All claims for a tax credit under this section shall
13 be filed on or before the end of the twelfth month following the
14 close of the taxable year for which the credit may be claimed.
15 Failure to properly and timely claim the credit shall constitute
16 a waiver of the right to claim the credit. A taxpayer may claim
17 a credit under this section only if the building or project is a
18 qualified low-income housing building or a qualified low-income
19 housing project under section 42 of the Internal Revenue Code.

20 Section 42(k) and section 465 (with respect to deductions
21 limited to amount at risk) and section 469 (with respect to



1 passive activity losses and credits limited) of the Internal
2 Revenue Code shall not be applied [~~in~~] with respect to
3 investments in buildings and projects claiming the credit under
4 this section.

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

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

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



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on January 1, 2017,
4 and shall apply to qualified low-income buildings awarded
5 credits after December 31, 2016.



Report Title:

Low-income Housing Tax Credit

Description:

Increases funding for affordable rental housing development by making the state low-income housing tax credit more valuable. Bases the amount of the tax credit on whether or not a building is financed by tax-exempt bonds. Reduces state tax credit period from ten to five years. (SB2833 HD1)

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

