

JAN 27 2016

A BILL FOR AN ACT

RELATING TO HOUSING.

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

11 (b) Each taxpayer owning an interest in a qualified
12 building located in Hawaii, subject to the tax imposed by this
13 chapter, who has filed a net income tax return for a taxable
14 year may claim a low-income housing tax credit against the
15 taxpayer's net income tax liability. The amount of the credit
16 shall be deductible from the taxpayer's net income tax
17 liability, if any, imposed by this chapter for the taxable year



1 in which the credit is properly claimed on a timely basis. A
2 credit under this section ~~[may be claimed]~~ shall be allocated
3 among some or all of the partners, members, or shareholders of
4 the entity owning the project in any manner agreed to by such
5 entity owners whether or not ~~[the taxpayer claims]~~ such entity
6 owners claim a federal low-income housing tax credit pursuant to
7 section 42 of the Internal Revenue Code.

8 (c) The amount of the low-income housing tax credit that
9 may be claimed by a taxpayer as provided in subsection (b) shall
10 be ~~[fifty]~~:

11 (1) Fifty per cent of the applicable percentage of the
12 qualified basis of each building located in Hawaii~~[r]~~
13 that is not financed with tax-exempt bonds; and

14 (2) One hundred per cent of the applicable percentage of
15 the qualified basis of each building located in Hawaii
16 that is financed with tax-exempt bonds.

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

19 ~~[(d) If a subaward under section 1602 of the American~~
20 ~~Recovery and Reinvestment Act of 2009, Public Law 111-5, has~~
21 ~~been issued for a qualified low income building, the amount of~~

1 ~~the low income housing tax credits that may be claimed by a~~
2 ~~taxpayer as provided in subsection (b) shall be equal to fifty~~
3 ~~per cent of the amount of the federal low income housing tax~~
4 ~~credits that would have been allocated to the qualified low-~~
5 ~~income building pursuant to section 42(b) of the Internal~~
6 ~~Revenue Code by the corporation had a subaward not been awarded~~
7 ~~with respect to the qualified low income building.~~

8 ~~(e)]~~ (d) For the purposes of this section, the
9 determination of:

- 10 (1) Qualified basis and qualified low-income building
11 shall be made under section 42(c) [7] of the Internal
12 Revenue Code;
- 13 (2) Eligible basis shall be made under section 42(d) [7] of
14 the Internal Revenue Code;
- 15 (3) Qualified low-income housing project shall be made
16 under section 42(g) [7] of the Internal Revenue Code;
17 and
- 18 (4) Recapture of credit shall be made under section
19 42(j) [7] of the Internal Revenue Code, except that
20 [the] :



1 (A) The tax for the taxable year shall be increased
2 under section 42(j)(1) only with respect to
3 credits that were used to reduce state income
4 taxes; and

5 (B) Any taxpayer who claims the credit shall bear the
6 credit recapture.

7 ~~[(5) Application of at risk rules shall be made under~~
8 ~~section 42(k);~~
9 ~~of the Internal Revenue Code.]~~

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

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



1 progress which, at the time of the federal expiration, meet the
2 requirements of section 42.

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

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

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



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

13 ~~(j)~~ (i) The director of taxation may adopt any rules
14 under chapter 91 and forms necessary to carry out this section."

15 SECTION 2. Section 201H-15, Hawaii Revised Statutes, is
16 amended by amending the title and subsections (a) and (b) to
17 read as follows:

18 "~~[+]~~§201H-15~~[+]~~ **Administration of low-income housing**
19 **credit allowed under section 235-110.8.** (a) The corporation is
20 designated as a state housing credit agency to carry out section
21 42(h) (with respect to limitation on aggregate credit allowable



S.B. NO. 3097

1 with respect to a project located in a state) of the Internal
2 Revenue Code of 1986, as amended. As a state housing credit
3 agency, the corporation shall determine the [eligibility]
4 eligible basis for a qualified low-income building, make the
5 allocation of housing credit dollar amounts within the State,
6 and determine the portion of the State's housing credit ceiling
7 set aside for projects involving qualified nonprofit
8 organizations. The corporation shall file any certifications
9 and annual reports required by section 42 (with respect to low-
10 income housing credit) of the Internal Revenue Code of 1986, as
11 amended.

12 (b) The state aggregate housing credit dollar amount shall
13 be allocated annually as required by section 42 of the Internal
14 Revenue Code of 1986, as amended, by the corporation in an
15 amount equal to [~~\$1.25~~] \$1.75 multiplied by the state population
16 in the calendar year or such greater or lesser amount as
17 provided by section 42(h) of the Internal Revenue Code of 1986,
18 as amended."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

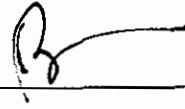


S.B. NO. 3097

1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2016.

3

INTRODUCED BY:



Breanne Hunt



S.B. NO. 3097

Report Title:

Low-income Housing Tax Credit; Tax Credits or Refunds

Description:

Amends provisions relating to low income housing income tax credit. Removes eligibility for taxpayers owning a low income building awarded under the American Recovery and Reinvestment Act of 2009. Allows owners of buildings not to be financed with tax-exempt bonds to claim fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. Allows owners of buildings financed with tax-exempt bonds to claim one hundred per cent of the applicable percentage of the qualified basis of each building in Hawaii. Raises the state aggregate housing credit dollar amount from \$1.25 to \$1.75 multiplied by the state population in the calendar year.

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

