

HB1179 HD2

Measure Title: RELATING TO HOUSING.

Report Title: Rental Housing Projects; Construction; General Excise Tax Exemption; Collective Bargaining Agreement; Prevailing Wages

Description: Expands the types of rental housing projects that can be exempted from general excise taxes. Allows the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects. (HB1179 HD2)

Companion:

Package: None

Current Referral: HOU, JDL/WAM

Introducer(s): JOHANSON, BROWER, SAIKI

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON HOUSING

March 21, 2017 at 2:45 p.m.
State Capitol, Room 225

In consideration of
H.B. 1179, H.D. 2
RELATING TO HOUSING.

The HHFDC **supports** H.B. 1179, H.D. 2, which expands the General Excise Tax (GET) exemption for certified or approved housing projects pursuant to sections 201H-36 and 237-29, HRS, to include rental housing projects for households at or below 140 percent of the area median income (AMI), of which at least 20 percent of units are set-aside for households at or below 80 percent AMI, with a collective bargaining agreement described in proposed section 104-2(i)(2), HRS.

HHFDC is willing and able to expand its GET exemptions program to accommodate these types of affordable rental housing projects. We defer to the Departments of Labor and Taxation as to the bill's impact on their respective programs.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Housing

Date: Tuesday, March 21, 2017
Time: 2:45 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1179, H.D. 2, Relating to Housing

The Department of Taxation (Department) appreciates the intent of H.B. 1179, H.D. 2, to increase affordable housing and defers to the Hawaii Housing Finance and Development Corporation (HHFDC) on the merits of this bill. The Department provides the following comments regarding this measure for your consideration.

Among other things, this measure expands the types of rental housing projects that can be exempted from the general excise tax (GET) to include projects where:

- All available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), and
- At least twenty per cent of available units are reserved for households with incomes at or below eighty per cent of the area median family income as determined by the HUD.

The measure has a defective effective date of July 1, 2030.

Under section 201H-36, Hawaii Revised Statutes, HHFDC certifies that a housing project is entitled to the GET exemption. Only after receiving such certification can a taxpayer claim the GET exemption. As the regulatory agreements and the determination of whether a taxpayer is eligible for the exemption remain with HHFDC, this measure will not have a substantial administrative impact on the Department.

Department of Taxation Testimony
HOU HB 1179 HD2
March 21, 2017
Page 2 of 2

If the Committee wishes to advance this measure, the Department requests that it be made effective for taxable years beginning after December 31, 2017. This will allow sufficient time for the necessary form and instruction changes.

Thank you for the opportunity to provide comments.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 20, 2017 5:17 PM
To: HOU Testimony
Cc: william.g.kunstman@hawaii.gov
Subject: Submitted testimony for HB1179 on Mar 21, 2017 14:45PM
Attachments: 20170321HB1179HD2 LBR HOU FINAL.pdf

Follow Up Flag: Follow up
Flag Status: Completed

HB1179

Submitted on: 3/20/2017

Testimony for HOU on Mar 21, 2017 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Chu Takayama	DLIR	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
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LEONARD HOSHIJO
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March 21, 2017

To: The Honorable Will Espero, Chair,
The Honorable Breen Harimoto, Vice Chair, and
Members of the Senate Committee on Housing

Date: Tuesday, March 21, 2017
Time: 2:45 p.m.
Place: Conference Room 225, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1179 HD2 Relating to Housing

I. OVERVIEW OF PROPOSED LEGISLATION

DLIR supports the intent of the provisions of HB1179 HD2 pertaining to prevailing wages as an initiative to draw private sector financing, development and operation of workforce rental housing, into addressing the recognized deficit in Hawaii's housing inventory. As in the current 104-2(h), Hawaii Revised Statutes (HRS), relating to projects financed with the proceeds of special purpose revenue bonds, the alternative of the terms of collective bargaining agreements provides a means to protect Hawaii industry standards and laborer and mechanic standards.

DLIR support for the measure is predicated on the understanding that it is not a categorical exemption from prevailing wages, but provides one alternative for a specific form of one type of construction. DLIR notes that the thousands of units of government assisted low-income rental housing, including public housing and private nonprofit or for profit housing, have been successfully developed in compliance with chapter 104, HRS, and/or federal Davis-Bacon prevailing wages, and HB1179 HD2 does not seek to change that.

II. CURRENT LAW

Section 104-2, HRS, requires all public works construction in excess of \$2,000, to pay laborers and mechanics working on the construction project the prevailing wages set by the DLIR Director, although housing projects with

a cost under \$500,000, developed under chapter 201H, HRS, by a non-profit corporation are exempt from the Wages and Hours of Employees on Public Works Law, chapter 104, HRS.

III. COMMENTS ON THE HOUSE BILL

The Department supports the provisions of HB1179 HD2 pertaining to prevailing wages to assist in the building of affordable housing in Hawaii and defers to HHFDC and the Department of Taxation (DoTAX) on the provisions pertaining to the housing and tax laws.

The Department offers an amendment to §104-2(b)(2) by inserting the following at the beginning of 104(2)(b) as the provision was intended to be placed in section 104-2(b) and not as a new §104-2(j).

Except for the chapter 201H-36(a)(5) prevailing wages established by section 104-2(h) and (i), [The] the prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the government of the United States; and

Should concerns be raised about the tax credits in the measure only applying to those projects with signatories to a collective bargaining agreement, DLIR offers the following replacement for the proposed (i) as a potential fix and notes that nothing prevents a contractor or subcontractor from being selected for the project using the prevailing wages as determined by the director:

(i) When:

(1) The Hawaii housing finance and development corporation has approved and certified for exemption from general excise taxes a qualified person or firm involved with a newly constructed, or moderately or substantially rehabilitated project under section 201H-36(a)(5);

(2) The qualified person or firm has entered into a contract with a general contractor or subcontractors whose workforce is subject to either:

(a) A collective bargaining agreement with a bona fide labor union and for which a chapter 201H-36(a)(5) prevailing wage for the laborers and mechanics employed

for this construction project has been approved by the director; or

- (b) A project labor agreement with the group whose wages are reflected in the Hawaii prevailing wage schedule for which chapter 201H-36(a)(5) prevailing wages for the laborers and mechanics employed for this construction project has been approved by the director; and
- (3) The qualified person or firm has received no other direct or indirect financing for this construction project from any other governmental contracting agency including the Hawaii housing finance and development corporation; and the terms of the chapter 201H-36(a)(5) prevailing wages shall be deemed the prevailing wages serving as the basis of compliance with this chapter for work on the project.

DLIR would consider a sunset provision as non-disruptive to operations, recognizing that for workforce rental housing financing and development, a substantial period of time would have to be provided, and allowance made for projects deemed to be in the "pipeline" at the time of sunset.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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KALAELOA

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Governor

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Chairperson

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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE
SENATE COMMITTEE ON HOUSING

Tuesday, March 21, 2017
2:45 P.M.

State Capitol, Conference Room 225

in consideration of
HB1179, HD2 – RELATING TO HOUSING

Chair Espero, Vice Chair Harimoto, and members of the committee.

The Hawaii Community Development Authority (HCDA) offers the following **comments** on HB1179, HD2.

This testimony reflects my view alone. The Hawaii Community Development Authority (HCDA) has not acted on this measure. In my capacity as the HCDA Executive Director, I respectfully offer the following **comments** on HB1179, HD2.

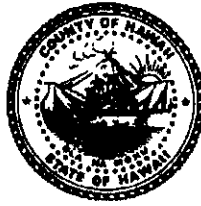
This bill would make rental housing projects aimed at families in the 80 to 140 percent Area Median Income (AMI) range more affordable to construct and would encourage the private sector to develop units at the lower end of the affordability market. Rental housing for families in the 80 to 140 percent AMI is in strong demand. However, few projects are targeted to those families, in large part due to the cost of construction in Hawaii.

This bill is a private sector effort by the Rental Housing Coalition (that includes labor unions) to address issues of cost-effectiveness for these projects.

The proposal supports HCDA's legislative mandate to create mixed use districts where residential development integrates a mixture of residents with varying incomes, ages, and family groups.

Thank you for the opportunity to provide **comments** on this bill.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

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March 17, 2017

Senator Will Espero, Chair
Committee on Housing
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Espero and Committee members:

**RE: HB 1179, HD 2
Relating to Housing**

Please accept this testimony in support of HB 1179, HD 2, which is meant to help private developers create more affordable rental housing in Hawaii.

The cost of housing has reached a point where too many of Hawaii's people are priced out of the market. That truism is often applied to the purchase price of housing, but the problem clearly applies to the rental market as well.

HB 1179, HD 2 offers a way in which to make a dent in the cost of construction, which in turn will be reflected in the rental price of the constructed units. We therefore urge passage of HB 1179 with an early effective date.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. Okabe".

for Wil Okabe
Managing Director
County of Hawaii

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Broaden Affordable Housing Exemption

BILL NUMBER: HB 1179, HD-2

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: Allows another category of affordable housing project, but only where the contractor uses union labor. This bill shows where two policy initiatives may collide: the policy to encourage the construction of affordable housing, and the policy to mandate that construction workers be paid the prevailing wage on public works projects.

SYNOPSIS: Amends HRS section 104-2, part of Hawaii's "Little Davis-Bacon Act," to provide that a properly submitted collective bargaining agreement with a general contractor or subcontractors that applies to a certified affordable housing project will determine the "prevailing wages and terms" for purposes of compliance with chapter 104. If the prevailing wages and terms are not set in this manner, they shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the federal government.

Amends HRS section 237-29 to add a new eligible category of affordable housing project, namely one developed under a contract described above by a qualified person or firm to provide affordable rental housing where all available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), of which at least twenty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by HUD.

Makes a conforming amendment to HRS section 201H-36.

EFFECTIVE DATE: July 1, 2030.

STAFF COMMENTS: Currently, the HHFDC may certify affordable rental housing projects under HRS 201H-36 as qualifying for the exemption under HRS 237-29.

One of the existing categories of affordable housing projects that can be certified is an affordable rental housing project where at least 50% of the available units are for households with incomes at or below 80% of the area median family income, of which at least 20% of the available units are for households with incomes at or below 60% of the area median family income.

The proposed additional category is an affordable rental housing project where all available units are for households with incomes at or below 140% of the area median family income, of which at least 20% of the available units are for households with incomes at or below 80% of the area median family income. However, it appears that to qualify for this category the developer would need to use a union contractor whose collective bargaining agreement was properly submitted to DLIR under Hawaii's Little Davis-Bacon Act.

If the policy goal is to build more affordable housing, we need to be wary of attaching conditions to the goal that would bog down the process. In 2015, lawmakers authorized \$10 million to cool the sweltering classrooms in our public schools, but added so many requirements that the request for proposals to the industry for school cooling looked more like a novel than a pamphlet. Schools couldn't use the money to go down to the local hardware; the work called for was a lot more complicated. As a result, the \$10 million initiative to cool the schools turned out to be a miserable failure. Nowhere near the 1000 classrooms promised were cooled by the end of 2015.

Digested 3/17/2017

Testimony of
Christopher Delaunay, Government Relations Manager
Pacific Resource Partnership

THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON HOUSING
Senator Will Espero, Chair
Senator Breene Harimoto, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, March 21, 2017
TIME: 2:45 pm
PLACE: Conference Room 225

Aloha Chair Espero, Vice Chair Harimoto, and Members of the Committee:

PRP **strongly supports** HB 1179, HD2, Relating to Housing, which expands the types of rental housing projects that can be exempted from general excise taxes (GET). This measure also allows the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects.

The shortage of units for working moderate-and lower-income household is at a crisis level negatively affecting families throughout the community including families in the 80-140% AMI range.

HB 1179, HD2 would expand the existing general excise tax exemptions for allowable construction, development, and financing costs for projects wherein at least 20% of available units are for households whose incomes are at or below 80% AMI, and wherein all remaining units are households whose incomes are at or below 140% AMI. GET reduction along with wage reductions will provide developers with incentives to produce critically needed affordable rental housing projects.

Thank you for allowing us to express our strong support on HB 1179, HD2 and we respectfully request your favorable consideration.



(Continued From Page 1)

About PRP

Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 348-8885

March 20, 2017

The Honorable Will Espero, Chair
The Honorable Breene Harimoto, Vice Chair
and members
Senate Committee on Housing
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Strong Support for HB1179 HD2, Relating to Housing

Dear Chair Espero, Vice Chair Harimoto, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

We strongly support **HB1179 HD2**, which would expand the types of rental housing projects that can be exempted from general excise taxes and allow the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with Chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects.

The Hawai'i Construction Alliance is extremely concerned about the chronic deficiency of rental apartment housing across the state. Simply put: the shortage of units for working moderate- and lower-income households is at a crisis level. Said shortage is negatively affecting families throughout the entire community, including our members, many of whom fall within the 80-140% AMI "middle income range."

Along with our partners in the banking, development, landowning, contracting, architecture, and engineering communities, we have formed the "Hawai'i Rental Housing Coalition," with the aim of identifying and carrying out concrete private-sector steps to make a meaningful impact on the economics of building and operating rental housing for families in the 80-140% AMI range. Through HB1179 HD2, we are seeking the State's assistance in this effort as well.

HB1179 HD2 would expand the existing general excise tax exemptions for allowable construction, development, and financing costs for projects wherein at least twenty percent of available units are for households whose incomes are at or below 80%AMI, and wherein all remaining units are households whose incomes are at or below 140%AMI. Compliance with these affordability requirements would be governed by HHFDC through the existing regulatory agreement process found in HRS §201H-36(b).

We believe that relief from general excise tax would immediately improve the economics of constructing, developing, and financing these types of rental housing projects.

Among the many concrete steps from the private sector is a commitment from the Hawai'i Construction Alliance unions to work to negotiate a special wage rate and benefits package to build rental housing projects meeting the same qualifications as described above.

In order to ensure that the Hawai'i Construction Alliance unions – or other unions who wish to participate – can negotiate a special wage rate and benefits package to build such rental housing projects, we are seeking to amend HRS §104 as part of HB1179 HD2. Specifically, the bill would clarify that if a developer has entered into a contract with a general contractor or subcontractors whose workforce is subject to a collective bargaining agreement with a bona fide labor union for the construction of the project, then the terms of the collective bargaining agreement and associated provisions shall be deemed the prevailing wages and terms serving as the basis of compliance with this chapter for work on the project.

We understand that the Department of Labor and Industrial Relations has offered several amendments:

- The first amendment being offered by the Department would correct a drafting error by removing the proposed §104-2(j) and inserting language at the beginning of §104-2(b)(2). We support this amendment, as it clarifies specifically the situations for which a special prevailing wage rate may apply.
- The second amendment has several components:
 - o The proposal for subsection (2) would amend the proposed §104-2(i) to allow a developer to access the tax exemption if the workforce of their project is subject to either a collective bargaining agreement or a project labor agreement. We support this amendment to the extent that it provides an equal opportunity for all contractors to access the special wage rate while still ensuring a robust package of benefits and protections for the project workforce.
 - o The proposal for subsection (3) would clarify that a project accessing the special prevailing wage rate can receive no other direct or indirect financing from any other governmental contracting agency including the Hawaii Housing Finance and Development Corporation. We support this proposed subsection (3).

The Hawai'i Construction Alliance is excited to take a leadership role in encouraging the production of rental housing across our state. We ask your committee to join us in this effort by taking favorable action today on HB1179 HD2.

Mahalo,



Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org

HAWAII RENTAL HOUSING COALITION

March 20, 2017

The Honorable Will Espero, Chair
The Honorable Breene Harimoto, Vice Chair
and Members
Senate Committee on Housing
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Strong Support for HB1179 HD2 (GET/Wages)

Dear Chair Espero, Vice-Chair Harimoto and Members:

The Hawaii Rental Housing Coalition (HRHC) is a non-profit citizens group comprised of landowners and developers, real estate industry professionals, Union representatives, segments of the non-profit community, and members of the banking industry who are committed to stimulating and supporting the private sector development of rental housing in the State of Hawaii. The HRHC's goal is to make it possible for the private sector to build rental housing for the workforce members of the community who earn less than 140% of the average median income (AMI) for their area.

It has long been recognized that affordable housing, and particularly rental housing in Hawaii, has become economically unfeasible for the private sector to develop. As such only subsidized projects utilizing government funding have been constructed.

A recent study by the Hawaii Housing Finance and Development Corporation (HHFDC) shows that by 2020 approximately 64,000+ rental units will be needed State-wide and more than 31,000 will be needed on Oahu. Government alone cannot address that need.

It is this need that the Hawaii Rental Housing Coalition is seeking to address. In order to do that the fundamental economics of building rental housing in Hawaii must be altered. We seek to do that in a collaborative manner through the contributions of key players in the private sector who have committed to making a meaningful contribution to expand the supply of rental housing, the most important of which is the construction trade which has committed to wage reductions through negotiated contracts as allowed by HB 1179 HD2 in conjunction with GET exemptions applicable to affordable housing projects. It is for this reason that the Hawaii Rental Housing Coalition strongly supports the measures proposed by HB 1179 HD2.

Respectfully submitted,

/s/ Christine Nakashima-Heise

Christine Nakashima-Heise
Project Coordinator

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 17, 2017 8:22 PM
To: HOU Testimony
Cc: sylviacabralmaui@gmail.com
Subject: Submitted testimony for HB1179 on Mar 21, 2017 14:45PM

HB1179

Submitted on: 3/17/2017

Testimony for HOU on Mar 21, 2017 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
sylvia cabral	Individual	Support	No

Comments: Pricing of affordable housing too skewed to keep up with market. That is not it's purpose. it is workforce housing not market housing and the workforce cannot qualify for \$3000-\$4000 monthly payments plus maintainece fees. You must address the Housing pricing guidelines. Not real.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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