

# **SB 668**

Measure Title: RELATING TO TAXATION.

Report Title: Tax Credit; Homeownership Development; Low-income Housing

Description: Creates a 50% tax credit to a maximum of \$250,000 for costs involved in projects that provide housing for low-income and very-low-income residents.

Companion:

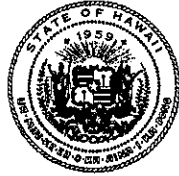
Package: None

Current Referral: HOU, WAM

Introducer(s): HARIMOTO, Dela Cruz, Espero, Inouye, Keith-Agaran, Nishihara, Riviere

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

Date: Tuesday, January 31, 2017  
Time: 2:45 P.M.  
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 668, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of the measure to increase home ownership by low income individuals by creating an income tax credit for eligible developers contributing cash, property, goods, and services to an eligible project. The Department has serious concerns about this measure because of the substantial ambiguities and because it authorizes the use of the credit to offset Transient Accommodation Taxes (TAT) under Chapter 237D, Hawaii Revised Statutes, the Department has serious concerns. In addition, the Department will be unable to implement any new income tax credit until taxable years beginning after December 31, 2018. The Department provides the following comments for your consideration.

S.B. 668 creates a 50% tax credit, up to a maximum of \$250,000 for costs involved in projects that assist low-income and very-low-income residents. The measure is effective upon approval, and is available for tax years beginning after December 31, 2017.

The Department first notes that the measure seems to require the Department to evaluate a proposal by a taxpayer concerning a proposed housing project. The Department has no expertise in evaluating housing projects, and there is no criteria stated upon which the Department could even begin to evaluate a project. For example, no guidelines are proffered as to what constitutes a low income or very low income family. In any case, the Department is unable to perform this type of evaluation and taxpayer confidentiality laws would prevent the information submitted in the proposal to be disseminated.

Second, the measure is unclear as to who may claim the credit. In particular, the measure provides that only "a contribution by an eligible developer" results in a tax credit. The use of the term "eligible" implies that there are ineligible developers, but fails to state who they are. The Department suggests clarifying subsection (b) so that it is clear who may claim the credit.

Third, the Department is seriously concerned about the provision that allows the credit to offset TAT liabilities. The TAT is imposed on the gross income of the operator. There are currently no tax credits in TAT law and allowing this type of cross-tax offset will create compliance and enforcement problems. Furthermore, it is unclear why a TAT offset is necessary when the intent of the measure is to incentivize the development of low income housing.

Finally, the Department is currently in the midst of its Tax System Modernization Program. Because income taxes will not be completely migrated, the Department is unable to implement this new credit as set forth in subsection (h). If the Committee wishes to advance this measure, the Department requests that the credit apply to taxable years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** INCOME, Credit for Homeownership Development

**BILL NUMBER:** SB 668

**INTRODUCED BY:** HARIMOTO, Dela Cruz, Espero, Inouye, Keith-Agaran, Nishihara, Riviere

**EXECUTIVE SUMMARY:** This measure enacts a new credit for costs involved in projects that provide housing for low income residents. The credit legislation is technically flawed, and appears to cover the same ground as the existing low-income housing tax credit.

**BRIEF SUMMARY:** Adds a new section to HRS chapter 235 to allow a homeownership development tax credit.

The amount of the credit is 50% of the value of the contribution by an eligible developer to an eligible project made during the taxable year, up to a maximum credit amount of \$250,000.

Provides that any taxpayer wishing to claim this credit shall submit a proposal to the department of taxation containing specified information.

Defines “contribution” as including cash, property, goods donated, and services to assist or facilitate development and management; land acquisition; downpayment and closing assistance; housing counselling and marketing fees; or the removal of liens recorded against residential property by municipal, county, or special-district local governments relating to an eligible project.

Defines an “eligible project” as construction or renovation in specific, identifiable single-unit or multiple-unit residential properties for the purpose of providing homeownership opportunities to low-income households or very-low-income households.

**EFFECTIVE DATE:** Taxable years beginning after December 31, 2016.

**STAFF COMMENTS:** This bill is unclear and inconsistent.

- Proposed subsection (a) requires the eligible taxpayer to be subject to chapter 237D, which is the transient accommodations tax. That requirement does not make sense when no transient accommodation property is involved.
- Proposed subsection (f) asks that a taxpayer wishing to claim a credit needs to submit a “proposal” to the department of taxation, but there is no mechanism in the statute as drafted for acceptance or approval of the proposal. In contrast, tax credits are usually claimed after the fact with the right of the tax agency to audit the claim.
- Proposed subsection (i) requires the taxpayer to be in compliance with all applicable federal, state, and county statutes, rules, and regulations, including the Davis-Bacon Act and HRS Chapter 104. Verifying compliance with this subsection is at best difficult and

may well be impossible. If, for example, a construction worker leaving the project and driving to a store to pick up supplies makes an illegal left turn, are all of the project credits forfeited?

- The definition of “contribution” in subsection (j) the bill, which defines what costs are creditable, is unclear as to what is creditable. It would be better to enumerate costs or other items for which a dollar amount is readily verifiable.
- The definition of “eligible project” requires a purpose of providing homeownership opportunities to low-income households or very-low-income households without specifying what thresholds are to be used for low-income or very-low-income and without specifying how the purpose of providing homeownership opportunities is to be manifested.

The subject matter of the bill is also probably duplicative of the credit in section 235-110.4, HRS.

Digested 1/27/2017

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Hawaii  
**Habitat  
for Humanity®**  
Association

*Building Housing, Building Hope*

January 30, 2017

From: George S. Massengale  
To: Senate Committee on Housing  
Date: Hearing January 31, 2017 at 2:45 P.M.  
Subj: SB668, Relating to Taxation

**Testimony in Strong Support**

Chair, Senator Espero, Vice Chair, Senator Harimoto and members of the Committee on Housing. I am here today on behalf of Hawaii Habitat for Humanity Association and our seven County Habitat affiliates in Hawaii, to offer this testimony in strong support of SB668. This bill if passed would incentivize giving to housing nonprofits, community redevelopment agencies, historic preservation organizations, and state and local governmental entities for the development of truly affordable housing.

I would like to begin by thanking both Senator Harimoto for introducing this bill on behalf of Hawaii Habitat for Humanity and its County affiliates, and Senator Espero, for scheduling this measure for a hearing.

As the committee members know we are in the midst of a housing crisis in which government and charitable giving alone cannot meet current needs for an adequate supply of homes that are healthy, decent, safe, and do not burden families with high housing costs. It is exactly for this reason that we asked for this bill to be introduced. By offering a substantial tax credit of 50% we believe that this will create a strong public-private partnership to build truly affordable homes for families with an AMI's between 50 and 100%

We strongly believe that once passed this SB668 will create synergy between the public, private, and nonprofit sectors. The two largest impacts of this measure would:

- Stimulate private investment, while at the same time reducing the burden on the state budget and our taxpayers, and;
- Increase (as well as preserve) the supply of decent and affordable ownership homes.

SB668, is a win win for everyone. First, it provides a substantial tax credit for businesses. Second, it provides additional funds for both nonprofit and for profit housing developers, and Third it will lessen the impact on the state budget.

In closing, Hawaii Habitat for Humanity and its seven affiliates stand ready to lend our support and development expertise to increase the availability of affordable ownership housing for our lower income residents. I'm sure that the housing committee members are aware that to truly solve our housing crisis, we need look at innovative funding options, that engage our entire community

Respectfully,

A handwritten signature in black ink, appearing to read "G. Massengale".

George S. Massengale  
Director, Community Engagement

**From:** mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]  
**Sent:** Monday, January 30, 2017 9:31 AM  
**To:** HOU Testimony <HOUTestimony@capitol.hawaii.gov>  
**Cc:** egcarson@icloud.com  
**Subject:** Submitted testimony for SB668 on Jan 31, 2017 14:45PM

**SB668**

Submitted on: 1/30/2017

Testimony for HOU on Jan 31, 2017 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Housing Now/FACE	Support	No

Comments:

To: Senate Committee on Housing  
Date: January 29, 2017  
Place: Hawaii State Capitol – Room No. 225  
Re: SB-668, Relating to Taxation

**Testimony in Strong Support**

Senator Will Espero, Chair and Senator Breene Harimoto, Vice Chair and members of the Committee on Housing.

My name is Ellen Godbey Carson and I am with Housing Now. I am that asking that you pass SB-668 which would create a 50% tax credit to a maximum of \$250,000 for costs involved in projects that provide housing for low-income and very-low-income residents.

If passed this bill would the business community to supply affordable housing for low and very low income families. Many of the individuals benefiting from may ever be their employees.

Because this bill is a tax credit it would reduce the burden on the state budget.

Please pass bill SB-668 so the Committee on Ways & Means could consider it further.

Mahalo

Ellen Godbey Carson, 1080 S.Beretania St., GPH2, Honolulu, HI 96814

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, January 29, 2017 11:00 PM  
**To:** HOU Testimony  
**Cc:** pastordianem@gmail.com  
**Subject:** Submitted testimony for SB668 on Jan 31, 2017 14:45PM

**SB668**

Submitted on: 1/29/2017

Testimony for HOU on Jan 31, 2017 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Diane S. Martinson	Individual	Support	No

Comments: I support SB668 and ask that you pass this bill so that the Committee on Ways and Means can give this further consideration. Providing a 50% tax credit to a maximum of \$250,000 for costs involved in projects that provide housing for low-income and very-low-income residents are incentives that support the business community in addressing the state's housing crisis.

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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**From:** CPH Testimony  
**Sent:** Monday, January 30, 2017 8:14 AM  
**To:** HOU Testimony  
**Subject:** FW: support for SB668

-----Original Message-----

**From:** Peggy Graybill [mailto:graybip@fastmail.com]  
**Sent:** Monday, January 30, 2017 7:57 AM  
**To:** CPH Testimony <CPHTestimony@capitol.hawaii.gov>  
**Subject:** support for SB668

More affordable housing is desperately needed in Oahu. A tax credit of a significant amount entice more developers to take on building affordable housing.

Go faster alone, go farther together  
Peggy Graybill