



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
LUIS P. SALAVERIA

Director

Department of Business, Economic Development and Tourism

before the

HOUSE COMMITTEE ON HOUSING

Tuesday, February 6, 2018

9:30 AM

State Capitol, Conference Room 423

in consideration of

HB2332

RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

Chair Brower, Vice Chair Nakamura, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT)

strongly supports HB2332, an Administration bill.

This bill proposes changes to the State Low-Income Housing Tax Credit (LIHTC) to increase the amount of equity generated by the sale of the LIHTC for affordable rental housing developments by expanding the pool of potential investors. DBEDT supports this bill because it will improve the State LIHTC as a financing tool for affordable rental housing for low-income families at or below 60 percent of the area median income.

Thank you for the opportunity to offer support on HB2332.

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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To: The Honorable Tom Brower, Chair
and Members of the House Committee on Housing

Date: Tuesday, January 6, 2018
Time: 9:30 A.M.
Place: Conference Room 423, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 2332, Relating to Low Income Housing Tax Credit

The Department strongly supports H.B. 2332, an Administration measure, defers to the Hawaii Housing Finance and Development Corporation (HHFDC) on the merits of this bill, and provides the following comments regarding for your consideration. The measure:

- Eliminates conformity to the following Internal Revenue Code (IRC) sections such that these provisions do not apply to investments in buildings and projects claiming the credit:
 - Sections 42(k) and 465 - relating to the at-risk rules; and
 - Section 469 – relating to the passive activity loss (PAL) limitations;
- Is effective on January 1, 2019 and applies to qualified low-income buildings awarded credits after December 31, 2018.

First, the Department notes that it generally prefers conformity to the IRC where possible, as this provides clear guidance to both the Department and to taxpayers, since there is substantial guidance issued in the form of rules and regulations issued by the Internal Revenue Service (IRS), as well as court decisions regarding the various sections of the IRC. Conformity greatly minimizes the burden on the Department and taxpayers, thereby assisting compliance with Hawaii's tax law.

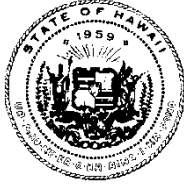
Second, there are two types of at-risk rules that this measure deletes: (1) IRC subsection 42(k), which relates to the credit basis of the building upon which the amount of the credit is calculated and (2) IRC section 465, which relates to the limit on deductions that can be taken based on an investment in an entity that owns a low income housing building.

Non-conformity to IRC section 42(k) may result in unintended consequences. Under current law, nonrecourse financing is added to the credit basis of the building only if the property was not acquired by the entity from a related person, and the financing is received from a lender in the business of lending (other than the seller of the property) or a government agency. The amount of the State credit is also set as 50% of the federal credits allocated. Nonconformity to IRC section 42(k) would allow a taxpayer to acquire the property from a related person at an inflated price using nonrecourse liability and increase the basis amount upon which the credit is calculated. To prevent this, the Department suggests that a new subsection (j)(3) be added as follows:

(3) In no event shall the amount of state credits allocated by the corporation for the qualified low income building exceed 50% of the amount of federal credits allocated to such building.

Finally, the Department is able to implement the measure with its current effective date.

Thank you for the opportunity to provide testimony in support of this measure.



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

HOUSE COMMITTEE ON HOUSING

February 6, 2018 at 9:30 a.m.
State Capitol, Room 423

In consideration of
H.B. 2332 RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

The HHFDC ***strongly supports*** H.B. 2332, an Administration bill. This bill proposes changes to the State Low-Income Housing Tax Credit (LIHTC) to increase the amount of equity generated by the sale of the LIHTC for affordable rental housing developments.

Rental losses from debt-financed residential rental projects, including federal LIHTC projects, are subject to passive activity and at-risk limitations under the Internal Revenue Code. This results in the deferral of rental losses for many potential investors. Under federal law, the passive activity and at-risk limitations normally apply to investors who are individuals and closely-held corporations. As a result, a federal LIHTC investor is typically a large corporation or financial institution. The State LIHTC law currently follows these federal provisions.

By eliminating the applicability of the at-risk and passive activity loss limitations to State LIHTC investors, this bill expands the pool of Hawaii taxpayers that can invest in the State LIHTC to any Hawaii taxpayer with Hawaii income tax liability. To increase the production of LIHTC projects, the result will be an increase in the supply of federal and State LIHTC. A federal LIHTC can be sold nationally, but a State LIHTC can only be sold to investors who owe Hawaii taxes. If we do not increase the number of Hawaii taxpayers who can invest in State LIHTCs, there will be an oversupply which will lower the price the existing pool of Hawaii LIHTC investors are willing to pay for a State LIHTC. Any increased pricing for the State LIHTC under this bill will generate more equity that can be spent on affordable rental housing development.

Thank you for the opportunity to testify.



EXECUTIVE CHAMBERS
HONOLULU

LATE

DAVID Y. IGE
GOVERNOR

Testimony of the Office of the Governor
State of Hawai'i

Before the
House Committee on Housing
February 6, 2018; 9:30 a.m.
Conference Room 423

In consideration of
House Bill No. 2332
RELATING TO LOW-INCOME HOUSING TAX CREDIT

Chair Brower , Vice Chair Nakamura, and committee members:

The Office of the Governor **strongly supports** House Bill 2332. Housing is a top priority for the Ige administration. Governor Ige convened a housing task force comprised of representatives from the Land Use Research Foundation, the Building Industry Association, the development community, housing advocacy organizations, and the state legislature to work collaboratively on solutions to the housing shortage.

Currently, only a handful of large corporations in this state comprise the investor pool resulting in limited demand and pricing of the housing tax credit. This measure supports the goals of the task force by expanding the pool of potential investors for State Low-Income Housing Tax Credits (LIHTC). It will help maximize the state's financing tools by repealing the application of the at-risk and passive activity loss rule, thereby allowing individuals and small corporations to also invest in State LIHTCs.

We urge you to pass this bill. Thank you for the opportunity to testify on this measure.

Denise Iseri-Matsubara
Office of the Governor
(808) 586-0805

LATE

HB-2332

Submitted on: 2/5/2018 11:45:25 AM

Testimony for HSG on 2/6/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Reimann	County of Maui	Support	No

Comments:

The County of Maui's Department of Housing & Human Concerns strongly supports HB2332 which would make changes to the State Low Income Housing Tax Credit (LIHTC) to increase the amount of equity generated by the sale of LIHTC for affordable rental developments.

This measure would increase the ability to generate equity that can be spent on much needed affordable rental housing.

Thank you for the opportunity to provide testimony.

Sincerely,
Carol Reimann
Director of Housing & Human Concerns
Maui County

HB-2332

Submitted on: 2/3/2018 4:38:19 PM

Testimony for HSG on 2/6/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ray Kamikawa	Chun Kerr LLP	Support	Yes

Comments:

Testimony by InState Partners

In Support of HB2332

Relating to the Low-Income Housing Tax Credit

House Committee on Housing

Tuesday, February 6, 2018, 9:30AM; CR423

The Honorable Tom Brower, Chair and Committee Members:

My name is Rachel Stern, with InState Partners, testifying in support of HB2332 Relating to the Low-Income Housing Tax Credit.

The purpose of this bill is to build on the incentives provided under Act 129 (2016) by decoupling from the at-risk and passive activity loss limitations under federal income tax law. These federal tax limitations only permit large corporations to benefit from the credit, excluding most Hawaii individual and small businesses from participating. This bill therefore expands the investor pool to be more inclusive of the typical Hawaii investor.

InState Partners strongly supports this measure, and urges this committee to pass this measure out of committee. We also defer to the Hawaii Housing Finance and Development Corporation on the technical issues.

Thank you for this opportunity to testify.

HB-2332

Submitted on: 2/5/2018 9:23:10 AM

Testimony for HSG on 2/6/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments: