

**SB 1105, SD2, HD1**  
**RELATING TO HOUSING**

**HSG, LAB, FIN**

# SB1105 SD2 HD1



Submit Testimony

Measure Title: RELATING TO HOUSING.

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

Description: 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. Expands the types of rental housing projects that can be exempt from general excise taxes. (SB1105 HD1)

Companion: [HB1179](#)

Package: None

Current Referral: HSG, LAB, FIN

Introducer(s): KOUCHI (Introduced by request of another party)

<a href="#">Sort by Date</a>		Status Text
1/25/2017	S	Introduced.
1/25/2017	S	Passed First Reading.
1/27/2017	S	Referred to HOU/JDL, WAM.
2/6/2017	S	Re-Referred to HOU, JDL/WAM.
2/9/2017	S	The committee(s) on HOU has scheduled a public hearing on 02-14-17 3:00PM in conference room 225.
2/14/2017	S	The committee(s) on HOU recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HOU were as follows: 3 Aye(s): Senator(s) Espero, Harimoto, Keith-Agaran; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) K. Kahele, Nishihara.
2/17/2017	S	Reported from HOU (Stand. Com. Rep. No. 496) with recommendation of passage on Second Reading, as amended (SD 1) and referral to JDL/WAM.

2/17/2017	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to JDL/WAM.
2/24/2017	S	The committee(s) on JDL/WAM will hold a public decision making on 02-28-17 9:50AM in conference room 211.
2/28/2017	S	The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 3 Aye(s): Senator(s) Keith-Agaran, K. Rhoads; Aye(s) with reservations: Senator(s) L. Thielen ; 0 No(es): none; and 2 Excused: Senator(s) Gabbard, Kim.
2/28/2017	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 9 Aye(s): Senator(s) Tokuda, Dela Cruz, English, Galuteria, Harimoto, K. Kahele, Riviere, Shimabukuro, Taniguchi; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Inouye, Wakai.
3/3/2017	S	Reported from JDL/WAM (Stand. Com. Rep. No. 685) with recommendation of passage on Third Reading, as amended (SD 2).
3/3/2017	S	48 Hrs. Notice 03-07-17.
3/7/2017	S	Report Adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: Senator(s) L. Thielen. Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/7/2017	H	Received from Senate (Sen. Com. No. 345) in amended form (SD 2).
3/9/2017	H	Pass First Reading
3/9/2017	H	Referred to HSG, LAB, FIN, referral sheet 27
3/10/2017	H	Bill scheduled to be heard by HSG on Tuesday, 03-14-17 10:00AM in House conference room 423.
3/14/2017	H	The committees on HSG recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Brower, Nakamura, Hashem, Quinlan, San Buenaventura; Ayes with reservations: none; Noes: none; and 2 Excused: Representative(s) Aquino, McDermott.
3/17/2017	H	Reported from HSG (Stand. Com. Rep. No. 1122) as amended in HD 1, recommending passage on Second Reading and referral to LAB.
3/17/2017	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on LAB with Representative(s) LoPresti voting aye with

		reservations; none voting no (0) and Representative(s) Ichiyama, McKelvey, Oshiro, Souki excused (4).
3/17/2017	H	Bill scheduled to be heard by LAB on Tuesday, 03-21-17 10:00AM in House conference room 309.

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# A BILL FOR AN ACT

RELATING TO HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that from 2015 to 2025,  
2 Hawaii will require an additional 64,700 housing units to meet  
3 projected long-term housing demands. Of this amount, 22,247  
4 households of all income levels will require rental units. The  
5 legislature further finds that the need is greatest for  
6 households with low to middle incomes.

7           Approximately ninety-three to ninety-five per cent of  
8 rental unit tenants have a household income of less than one  
9 hundred forty per cent of the Hawaii median income. Until now,  
10 the private sector has been unable to produce sufficient rental  
11 housing because of the difficult economics of building and  
12 operating rental housing in Hawaii. The legislature further  
13 finds that a group of private sector landowners, developers,  
14 contractors, architects, engineers, and labor unions have agreed  
15 to take meaningful steps to improve the economics of building  
16 and operating rental housing in the State.



1           The purpose of this Act is to improve the economics of  
2 building and operating rental housing in the State by:

- 3           (1) Expanding the types of rental housing projects that
- 4                 can be exempt from general excise taxes; and
- 5           (2) Allowing the terms of collective bargaining agreements
- 6                 and associated provisions to be deemed the prevailing
- 7                 wages and terms serving as the basis of compliance
- 8                 with chapter 104, Hawaii Revised Statutes, for the
- 9                 construction of certain rental housing projects.

10           SECTION 2. Section 104-2, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§104-2 Applicability; wages, hours, and other**  
13 **requirements.** (a) This chapter shall apply to every contract  
14 in excess of \$2,000 for construction of a public work project to  
15 which a governmental contracting agency is a party; provided  
16 that this chapter shall not apply to experimental and  
17 demonstration housing developed pursuant to section 46-15 or  
18 housing developed pursuant to chapter 201H if the cost of the  
19 project is less than \$500,000 and the eligible bidder or  
20 eligible developer is a private nonprofit corporation.

21           For the purposes of this subsection:



1 "Contract" includes but is not limited to any agreement,  
2 purchase order, or voucher in excess of \$2,000 for construction  
3 of a public work project.

4 "Governmental contracting agency" includes:

5 (1) Any person or entity that causes either directly or  
6 indirectly the building or development of a public  
7 work; and

8 (2) Any public-private partnership.

9 "Party" includes eligible bidders for and eligible  
10 developers of any public work and any housing under chapter  
11 201H; provided that this subsection shall not apply to any  
12 housing developed under section 46-15 or chapter 201H if the  
13 entire cost of the project is less than \$500,000 and the  
14 eligible bidder or eligible developer is a private nonprofit  
15 corporation.

16 (b) Every laborer and mechanic performing work on the job  
17 site for the construction of any public work project shall be  
18 paid no less than prevailing wages; provided that:

19 (1) The prevailing wages shall be established by the  
20 director as the sum of the basic hourly rate and the  
21 cost to an employer of providing a laborer or mechanic



1 with fringe benefits. In making prevailing wage  
2 determinations, the following shall apply:

3 (A) The director shall make separate findings of:

4 (i) The basic hourly rate; and

5 (ii) The rate of contribution or cost of fringe  
6 benefits paid by the employer when the  
7 payment of the fringe benefits by the  
8 employer constitutes a prevailing practice.

9 The cost of fringe benefits shall be  
10 reflected in the wage rate scheduled as an  
11 hourly rate; and

12 (B) The rates of wages which the director shall  
13 regard as prevailing in each corresponding  
14 classification of laborers and mechanics shall be  
15 the rate of wages paid to the greatest number of  
16 those employed in the State, the modal rate, in  
17 the corresponding classes of laborers or  
18 mechanics on projects that are similar to the  
19 contract work;

20 (2) [The] Except for the special prevailing wage  
21 established by subsections (h) and (i), the prevailing





1 wages shall be not less than the wages payable under  
2 federal law to corresponding classes of laborers and  
3 mechanics employed on public works projects in the  
4 State that are prosecuted under contract or agreement  
5 with the government of the United States; and

6 (3) Notwithstanding the provisions of the original  
7 contract, the prevailing wages shall be periodically  
8 adjusted during the performance of the contract in an  
9 amount equal to the change in the prevailing wage as  
10 periodically determined by the director.

11 (c) No laborer or mechanic employed on the job site of any  
12 public work of the State or any political subdivision thereof  
13 shall be permitted or required to work on Saturday, Sunday, or a  
14 legal holiday of the State or in excess of eight hours on any  
15 other day unless the laborer or mechanic receives overtime  
16 compensation for all hours worked on Saturday, Sunday, and a  
17 legal holiday of the State or in excess of eight hours on any  
18 other day. The rate for overtime compensation and any other  
19 premium rates of pay shall be those rates specified in an  
20 applicable collective bargaining agreement when the basic hourly  
21 rate is established by a collective bargaining agreement.



1 For purposes of determining overtime compensation under  
2 this subsection, the basic hourly rate of any laborer or  
3 mechanic shall not be less than the basic hourly rate determined  
4 by the director to be the prevailing basic hourly rate for  
5 corresponding classes of laborers and mechanics on projects of  
6 similar character in the State.

7 (d) The contractor or the contractor's subcontractor shall  
8 pay all mechanics and laborers employed on the job site,  
9 unconditionally and not less often than once a week, and without  
10 deduction or rebate on any account, except as allowed by law,  
11 the full amounts of their wages including overtime, accrued to  
12 not more than five working days prior to the time of payment, at  
13 wage rates not less than those deemed to be prevailing,  
14 regardless of any contractual relationship which may be alleged  
15 to exist between the contractor or subcontractor and the  
16 laborers and mechanics. The rates of wages to be paid shall be  
17 posted by the contractor in a prominent and easily accessible  
18 place at the job site, and a copy of the rates of wages required  
19 to be posted shall be given to each laborer and mechanic  
20 employed under the contract by the contractor at the time each  
21 laborer and mechanic is employed, except that where there is a



1 collective bargaining agreement the contractor does not have to  
2 provide the contractor's employees the wage rate schedules.

3 (e) The governmental contracting agency may withhold from  
4 the contractor so much of the accrued payments as the  
5 governmental contracting agency may consider necessary to pay to  
6 the laborers and mechanics employed by the contractor or any  
7 subcontractor on the job site the difference between the  
8 prevailing wages and the wages received and not refunded by the  
9 laborers and mechanics.

10 (f) Every contract in excess of \$2,000 for construction of  
11 a public work project and the specifications for such contract  
12 shall include provisions that set forth the requirements of  
13 subsections (a) to (e); provided that failure by the contracting  
14 agency to include those provisions in the contract or  
15 specifications shall not be a defense of the contractor or  
16 subcontractor for noncompliance with the requirements of this  
17 chapter.

18 (g) For any public work project that is subject to this  
19 chapter but not directly caused by a governmental contracting  
20 agency, the director shall be responsible for enforcement of  
21 this chapter, including the collection and maintenance of



1 certified copies of all payrolls that are subject to this  
2 chapter. The director shall adopt rules pursuant to chapter 91  
3 to effectuate the purposes of this section.

4 (h) When:

5 (1) The department of budget and finance enters a project  
6 agreement with a project party, as those terms are  
7 defined in chapter 39A, to finance or refinance a  
8 project with the proceeds of special purpose revenue  
9 bonds;

10 (2) The project party has entered into a collective  
11 bargaining agreement with a bona fide labor union  
12 governing the project party's workforce; and

13 (3) The collective bargaining agreement has been properly  
14 submitted to the director under section 104-34,

15 the terms of the collective bargaining agreement and associated  
16 provisions shall be deemed the prevailing wages and terms  
17 serving as the basis of compliance with this chapter for work on  
18 the project by the project party's workforce; provided that this  
19 subsection does not affect the director's enforcement powers  
20 contained in subsection (g). If the terms of the collective  
21 bargaining agreement and associated provisions do not include



1 wages, then the prevailing wage shall be no less than the wages  
2 payable under federal law to corresponding classes of laborers  
3 and mechanics employed on housing projects in the State that are  
4 prosecuted under contract or agreement with the government of  
5 the United States.

6 (i) When:

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

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

15 (A) A collective bargaining agreement with a bona  
16 fide labor union and for which a special  
17 prevailing wage schedule for the laborers and  
18 mechanics employed for the construction project  
19 has been approved by the director; or

20 (B) A project labor agreement with the group whose  
21 wages are reflected in the Hawaii prevailing wage



1           schedule for which a special prevailing wage for  
2           the laborers and mechanics employed for the  
3           construction project has been approved by the  
4           director; and

5        (3) The qualified person or firm has received no other  
6           direct or indirect financing for the construction  
7           project from any other governmental contracting agency  
8           including the Hawaii housing finance and development  
9           corporation;

10 the terms of the collective bargaining agreement and associated  
11 provisions shall be deemed the prevailing wages and terms  
12 serving as the basis of compliance with this chapter for work on  
13 the project; provided that the special prevailing wage  
14 classification and the associated provisions shall be deemed the  
15 prevailing wages and terms serving as the basis of compliance  
16 with this chapter; provided that this subsection does not affect  
17 the director's enforcement powers in subsection (g)."

18        SECTION 3. Section 201H-36, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20        "(a) In accordance with section 237-29, the corporation  
21 may approve and certify for exemption from general excise taxes



1 any qualified person or firm involved with a newly constructed,  
2 or moderately or substantially rehabilitated project:

- 3 (1) Developed under this part;
- 4 (2) Developed under a government assistance program  
5 approved by the corporation, including but not limited  
6 to the United States Department of Agriculture 502  
7 program and Federal Housing Administration 235  
8 program;
- 9 (3) Developed under the sponsorship of a private nonprofit  
10 organization providing home rehabilitation or new  
11 homes for qualified families in need of decent, low-  
12 cost housing; [~~or~~]
- 13 (4) Developed by a qualified person or firm to provide  
14 affordable rental housing where at least fifty per  
15 cent of the available units are for households with  
16 incomes at or below eighty per cent of the area median  
17 family income as determined by the United States  
18 Department of Housing and Urban Development, of which  
19 at least twenty per cent of the available units are  
20 for households with incomes at or below sixty per cent  
21 of the area median family income as determined by the



1 United States Department of Housing and Urban  
 2 Development [~~-~~]; or  
 3 (5) Developed under a contract described in section  
 4 104-2(i)(2) by a qualified person or firm to provide  
 5 affordable rental housing where all available units  
 6 are for households with incomes at or below one  
 7 hundred forty per cent of the area median family  
 8 income as determined by the United States Department  
 9 of Housing and Urban Development, of which at least  
 10 twenty per cent of the available units are for  
 11 households with incomes at or below eighty per cent of  
 12 the area median family income as determined by the  
 13 United States Department of Housing and Urban  
 14 Development; provided that the tax exemption  
 15 established under this paragraph shall be available  
 16 for taxable years beginning after December 31, 2017."

17 SECTION 4. Statutory material to be repealed is bracketed  
 18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2050, and  
 20 shall be repealed on ; provided that sections 104-2 and  
 21 201H-36, Hawaii Revised Statutes, shall be reenacted in the form





1 in which they read on the day prior to the effective date of  
2 this Act.



**Report Title:**

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

**Description:**

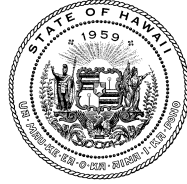
Allows the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects. Expands the types of rental housing projects that can be exempt from general excise taxes. (SB1105 HD1)

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



DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



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

MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Aaron Ling Johanson, Chair  
and Members of the House Committee on Labor and Public Employment

Date: Tuesday, March 21, 2017  
Time: 10:00 A.M.  
Place: Conference Room 309, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 1105, S.D. 2, H.D. 1, Relating to Housing

The Department of Taxation (Department) appreciates the intent of S.B. 1105, S.D. 2, H.D. 1, 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 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) by allowing 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 which are reserved for households with incomes at or below eighty per cent of the area median family income as determined by the HUD. The House Committee on Housing adopted the Department's request to change the word "credit" to "exemption" in Section 3 of this measure, since an exemption from the GET is being provided and not a tax credit. The measure has a defective effective date of July 1, 2050, but the exemption would otherwise apply to taxable years beginning after December 31, 2017, and is repealed on an unstated date.

Under section 201H-36, Hawaii Revised Statutes, HHFDC certifies that a housing project is entitled to the GET exemption, and upon such certification, a taxpayer is entitled to 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 as it is currently written.

Thank you for the opportunity to provide comments.

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

**HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT**

March 21, 2017 at 10:00 a.m.  
State Capitol, Room 309

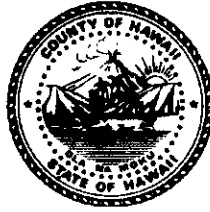
In consideration of  
**S.B. 1105, S.D. 2, H.D. 1**  
**RELATING TO HOUSING.**

The HHFDC supports S.B. 1105, S.D. 2, H.D. 1, 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.

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 20, 2017

Representative Aaron Ling Johanson, Chair  
Committee on Labor & Public Employment  
Hawai'i State Capitol  
Honolulu, HI 96813

Dear Chair Johanson and Members

**RE: SB 1105 SD 2, HD 1  
Relating to Housing**

Please accept this testimony in support of SB1105, SD2, HD1, 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.

SB1105, SD2, HD1 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 SB 1105 with an early effective date.

Respectfully submitted,

Wil Okabe  
Managing Director

# Hawai'i Construction Alliance

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

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March 18, 2017

The Honorable Aaron Ling Johanson, Chair  
The Honorable Daniel Holt, Vice Chair  
and members  
House Committee on Labor & Public Employment  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**RE: Strong Support for SB1105 SD2 HD1, Relating to Housing**

Dear Chair Johanson, Vice Chair Holt, 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 SB1105 SD2 HD1**, which would 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, Hawai'i Revised Statutes, for the construction of certain rental housing projects and would expand the types of rental housing projects that can be exempt from general excise taxes. The bill currently would take effect on July 1, 2050 and sunset on an unspecified date.

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 SB1105 SD2 HD1, we are seeking the State's assistance in this effort as well.

SB1105 SD2 HD1 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 modify HRS Chapter 104 as part of SB1105 SD2 HD1. The bill currently has language to allow for a special prevailing wage rate schedule to be established and for the special prevailing wage rate to be implemented either through a collective bargaining agreement or a project labor agreement.

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 **supporting SB1105 SD2 HD1**.

Mahalo,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam". The signature is written in a cursive, flowing style.

Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance  
[execdir@hawaiiiconstructionalliance.org](mailto:execdir@hawaiiiconstructionalliance.org)

Testimony of  
Christopher Delaunay, Government Relations Manager  
Pacific Resource Partnership

HOUSE OF REPRESENTATIVES  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Representative Aaron Ling Johanson, Chair  
Representative Daniel Holt, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, March 21, 2017  
TIME: 10:00am  
PLACE: Conference Room 309

Aloha Chair Johanson, Vice Chair Holt, and Members of the Committee:

PRP **supports** SB 1105, SD2, HD1, Relating to Housing, which 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. This measure also expands the types of rental housing projects that can be exempt from general excise taxes.

The shortage of affordable rental housing units is at a crisis level negatively affecting families throughout the State, including families who fall within the 80-140% AMI range.

SB 1105, SD2 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 support on SB 1105, SD2, HD1 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.*

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, Broaden Affordable Housing Exemption

**BILL NUMBER:** SB 1105, HD-1

**INTRODUCED BY:** House Committee on Housing

**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.

Amends HRS section 201H-36 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. Contains a proviso that the tax exemption established under this paragraph shall be available for taxable years beginning after December 31, 2017.

**EFFECTIVE DATE:** July 1, 2050, repeals on \_\_\_\_\_.

**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 of the 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 store and simply buy an air conditioner; 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.

As a technical matter, the proviso language in proposed HRS section 201H-36(a)(5) is inaccurate. No tax exemption is established under that paragraph. The exemption is in section 237-29. This issue can be fixed by deleting the proviso. and having the Act take effect for taxable years beginning after December 31, 2017.

Digested 3/17/2017

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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 21, 2017

TO: HONORABLE AARON LING JOHANSON, CHAIR, HONORABLE DANIEL HOLT, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **S.B. 1105, SD2, HD1 RELATING TO HOUSING.** 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. Expands the types of rental housing projects that can be exempt from general excise taxes. (SB1105 HD1)

HEARING

DATE: March 21, 2017  
TIME: 10:00 a.m.  
PLACE: Capitol Room 309

Dear Chair Johanson, Vice Chair Holt, and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA supports the intent of this measure and **has suggested amendments** to ensure that all who are interested in delivering an affordable housing project are able to utilize the proposed tax exemption and not be depending upon whether the contractor belongs to a union or not. In order to address this GCA **has suggested amendments** to S.B. 1105, SD2, HD1

S.B. 1105, SD2, HD1 proposes to increase the types of rental housing projects that can be exempted from general excise taxes, while requiring that in order to qualify for such one would have to be subject to the terms of a collective bargaining agreement. We appreciate the intent of this legislation particularly the need to increase the delivery of affordable housing rentals and the proponent's willingness to reduce the wage and benefits to go under the prevailing wage rate which is triggered by Chapter 104 for projects utilizing federal tax credits. GCA understands the need to increase the number of available rental housing units and supports addressing ways in which to address this dire need in our state, however the bill as drafted provides special tax exemptions to some and not to all.

GCA suggests the following amendments (**Yellow Highlight GCA suggests added language; Red Font Stricken Through** and bracketed suggests deletion) to Section 2 of the bill to ensure that all interested in producing more affordable homes can benefit from the general tax exemption.

(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)(4) and** 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 special prevailing wage schedule for the laborers and mechanics employed for the construction project has been approved by the director; or

(B) **An agreement for which a special prevailing wage schedule is not less than     per cent of the current prevailing wage rates for laborers and mechanics employed for the construction project and has been approved by the director** [~~A project labor agreement with the group whose wages are reflected in the Hawaii prevailing wage schedule for which a special prevailing wage for the laborers and mechanics employed for the construction project has been approved by the director~~]; and

(3) The qualified person or firm has received no other direct or indirect financing for the construction project from any other governmental contracting agency including the Hawaii housing finance and development corporation ; 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; provided that the special prevailing wage classification and the associated provisions shall be deemed the prevailing wages and terms serving as the basis of compliance with this chapter; provided that this subsection does not affect the director's enforcement powers in subsection (g)."

Furthermore, GCA recommends the following amendment to Section 3 of the bill as proposed amendment in Section 201H-36:

(5) Developed [~~under a contract described in section 104-2(i)(2)~~] 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, 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 the United States Department of Housing and Urban Development; provided that the tax credit established under this paragraph shall be available for taxable years beginning after December 31, 2017."

The proposed amendments would allow for a more competitive bidding environment for all interested general contractors and subcontractors who can assist in increasing the stock of affordable housing rentals for Hawaii's citizens in need. Furthermore, it would leave it up to the private parties to negotiate what the wage for the respective trades would be without disqualifying anyone from being eligible for the general tax exemptions.

For these reasons, we respectfully request your consideration of the proposed amendments.

**SB 1105, SD2, HD1**  
**Late Testimony**



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



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KALAELOA

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Governor

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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Tuesday, March 21, 2017  
10:00 A.M.

State Capitol, Conference Room 309

in consideration of

**SB1105, SD2, HD1 – RELATING TO HOUSING.**

Chair Johanson, Vice Chair Holt, and members of the committee.

The Hawaii Community Development Authority (HCDA) offers the following **comments** on SB1105, SD2, HD1.

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.





DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIJO  
DEPUTY DIRECTOR

**LATE**

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**LATE**

March 21, 2017

To: The Honorable Aaron Ling Johanson, Chair,  
The Honorable Daniel Holt, Vice Chair,  
and Members of the House Committee on Labor and Public Employment

Date: Tuesday, March 21, 2017  
Time: 10:00 a.m.  
Place: Conference Room 309, State Capitol

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

**Re: S.B. No. 1105 SD2 Relating to Housing**

**I. OVERVIEW OF PROPOSED LEGISLATION**

DLIR strongly supports the intent of the provisions of SB1105 SD2HD1 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 SB1105 SD2HD1 does not seek to change that.

DLIR suggests clarifying amendments to the measure.

## 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 SENATE BILL

The Department strongly supports the provisions of SB1105 SD2HD1 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.

DLIR recommends replacing “special prevailing wage” with “chapter 201H-36(a)(5) prevailing wages” on page 4, line 20 and on page 10, line 1 and replacing “special prevailing wage” on page 9, lines 16-17 with “chapter 201H-36(a)(5) prevailing wage”.

DLIR offers the following language to replace the language currently found on page ten lines 10-17.

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 RENTAL HOUSING COALITION

March 20, 2017

The Honorable Aaron Ling Johanson, Chair  
The Honorable Daniel Holt, Vice Chair  
and Members  
House Committee on Labor & Public Employment  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**LATE**

**LATE**

**LATE**

**RE: Strong Support for SB1105 SD2 HD1 (GET/Wages)**

Dear Chair Johanson, Vice-Chair Holt 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 SB 1105 SD2 HD1 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 SB 1105 SD2 HD1.

Respectfully submitted,

Christine Nakashima-Heise, Project Coordinator  
*cnheise@gmail.com*