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To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Friday, February 24, 2017
Time: 9:35 A.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 765, S.D. 1, Relating to New Market Tax Credits

The Department of Taxation (Department) appreciates the intent of S.B. 765, S.D. 1, defers to the Department of Business, Economic Development, and Tourism (DBEDT) on the merits of this bill, and provides the following additional comments for your consideration.

Among other things, S.B. 765 S.D. 1 adds a definition of "Community Development Entity" (CDE) to Section 210D-2, Hawaii Revised Statutes, which is intended to provide financing to businesses in Hawaii through a structure that facilitates the use of the federal New Market Tax Credit (NMTC). The Senate Committee on Economic Development, Tourism, and Technology removed language contained in the original measure related to State guarantees and credit enhancements. The measure is effective on July 1, 2017.

The NMTC Program was enacted by Congress as part of the Community Renewal Tax Relief Act of 2000, and is found in section 45D of the Internal Revenue Code (IRC). It permits individual and corporate taxpayers to receive a credit against federal income taxes for making Qualified Equity Investments (QEIs) in qualified CDEs. These investments are expected to result in the creation of jobs and material improvement in the lives of residents of low-income communities. Examples of expected projects include financing small businesses, improving community facilities such as daycare centers, and increasing home ownership opportunities.

A "low-income community" is defined as any population census tract where the poverty rate for such tract is at least 20% or in the case of a tract not located within a metropolitan area, median family income for such tract does not exceed 80% of statewide median family income, or in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80% of the greater of statewide median family income or the metropolitan area median family income. As part of the American Jobs Creation Act of 2004, IRC section 45D(e)(2) was amended to provide that targeted populations may be treated as low-income communities.

The NMTC program is intended to attract capital to low income communities by providing private investors with a federal tax credit for investments made in businesses or economic development projects located in distressed communities in the nation. A NMTC investor receives a tax credit equal to 39 percent of the total QEI made in a CDE, with the credit taken over a seven-year period: 5 percent annually for the first three years and 6 percent in years four through seven. If an investor redeems a NMTC investment before the seven-year term has run its course, all credits taken to date are recaptured with interest.

It should be first noted that the NMTC has been extended through 2019 under the Protecting Americans from Tax Hikes Act of 2015. The NMTC is a highly technical credit. Generally speaking, the CDE must first enter into an allocation agreement with the Community Development Financial Institutions Fund (CDFI), which specifies the terms of the NMTC allocation under IRC section 45D(f)(2). The CDE must provide notice to any investor who makes a QEI in the CDE at its original issue that the equity investment is in fact a QEI entitling the investor to claim the NMTC, and must be provided by the CDE to the taxpayer no later than 60 days after the date the investor makes the equity investment in the CDE. The notice must contain the amount paid to the CDE for the QEI at its original issue and the CDE's taxpayer identification number. (Treas. Reg. § 1.45D-1(g)(2)(A)).

Under IRC section 45D(c)(1), a CDE is any domestic corporation or partnership:

1. Whose primary mission is serving or providing investment capital for low-income communities or low-income persons;
2. That maintains accountability to residents of low-income communities through their representation on any governing board or advisory board of the CDE; and
3. Has been certified as a CDE by the CDFI Fund.

Therefore, before any credits can be allocated, it is imperative that any CDE created by this measure be certified by the CDFI fund. The CDFI Fund is responsible for establishing the credit application process, eligibility guidelines, and a scoring model for ranking applicants requesting allocations of NMTC. The CDFI Fund in turn grants credit authority to the CDE- i.e. the ability to issue a specific amount of NMTC in exchange for equity investments. The CDE must then invest substantially all of the cash in low-income communities within 12 months of receiving the funds.

Because making loans and ranking eligible businesses for funding is not a function of the Department, and one in which it has no expertise, the Department has no objection to the measure as currently written.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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

SENATE COMMITTEE ON WAYS AND MEANS

Friday, February 24, 2017
9:35a.m.
State Capitol, Conference Room 211

In consideration of
SB 765, SD 1
RELATING TO NEW MARKET TAX CREDITS.

Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) offers comments for SB 765, SD 1. We are concerned about the cost implications this proposal could have on the department's and overall State's budget.

This bill does not provide the necessary funding for loan guarantees within the Community-Based Economic Development (CBED) Revolving Fund, nor for staff with the necessary expertise to administer complex financial instruments such as the Federal government's New Market Tax Credits.

Presently, there is only $100,000 in the CBED fund which is not enough to guarantee any new market tax credit loans. An additional $400,000 is necessary for the CBED fund to guarantee average sizes of new market tax loans. In addition, DBEDT estimates that an additional $125,000 in each year of the biennium is necessary to implement and administer this measure.

Also of concern, is the new addition to Section 210D-9 Loans, No. 3, which adds new language to the statute, "Loans to entities that capitalize qualified community development entities that use the proceeds to make loans to borrowers." This addition directly conflicts with Chapter 116, Hawaii Administrative Rules, Section 15-116-4 Purpose of loans, which states, "Loans shall not be made where the direct or indirect purpose or result would be to: (5) Provide funds to an applicant to engage in the business of lending or investing money."

Thank you for the opportunity to testify.

DATE: February 24, 2017

TO: Chair Jill N. Tokuda, Vice-Chair Donovan M. Dela Cruz and Members of the Senate Committee on Ways and Means

MEASURE: SB765, SD1

SUBJ: Testimony in Strong Support of SB765, SD1

Good morning Chair Tokuda, Vice-Chair Dela Cruz and Members of the Senate Committee on Ways and Means. My name is Bob Hall, Partner with Pacific Growth Associates, and I submit testimony in strong support of SB765, SD1.

Community Based Organizations (CBOs) in Hawaii have played an important role in bringing about social and economic improvement to our communities. CBOs support our well being by means of providing economic, educational, environmental, health care, and housing services within their respective communities. They are catalytic in nurturing local, sustainable initiatives. Most seek grant and private funding year round for operational support and key community projects. Many also seek Legislative support each year through State Grant-in-Aid.

The Hawaii Community Based-Economic Development (CBED) Technical and Financial Assistance Program, facilitated by DBEDT, was established to provide financial assistance to community-based businesses and enterprises through low-interest loans and grants to qualifying applicants. SB765, SD1 provides yet another financing "tool" utilizing public-private partnerships that can optimize a wide variety of funding sources.

SB765, SD1 will serve as a "tool" that enables CBOs to utilize CBED financing as leverage to bring forth further equity through the federal New Markets Tax Credit (NMTC) by adding the definition of "qualified community development entity". Essentially, those who receive $1.00 in CBED financing could leverage each dollar through a NMTC transaction and create an additional $.39 in equity. This change compliments the intent and purpose of the CBED Technical and Financial Assistance Program and establishes leveraging opportunities through programs such as the federal NMTC program as another financing opportunity.

The federal NMTC program is currently the largest federal economic development incentive program. The program was enacted as part of the Community Renewal Tax Relief Act of 2000 to encourage investment in low-income communities. Economic incentives are important in helping low-income census tracts recover from the recession, since these areas usually have the most difficulty generating new capital.

NMTCs are a tax credit, not a tax deduction. A tax credit can be given to the IRS instead of making a cash payment for taxes owed by the investor. The investor is typically a bank or insurance company. NMTC is very flexible and can be used for a wide range of purposes. Most types of businesses, including not-for-profit businesses are eligible for

NMTC subsidy. The program has supported a wide variety of community and economic development initiatives including restaurants, childcare facilities, community centers, charter schools, supermarkets, shopping centers, manufacturing and industrial facilities, health care centers, and mixed-use buildings with affordable housing.

Pacific Growth Associates (PGA) is a strong advocate for successful CBOs. Over the past 5 years, PGA has facilitated over $70 million in private equity through the NMTC Program, which in turn has built 3 Federally Qualified Health Centers (1 FQHC is located on Hawaiian Home Lands), 1 business and retail incubator with a commercial kitchen, and 1 Community Center on Hawaiian Home Lands.

PGA strongly supports SB765, SD1 and its intended results, as it will further assist CBOs meet their mission and in turn improve the well being of our communities.

Respectfully Submitted,

Bob Hall, Partner
Pacific Growth Associates

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 9:22 AM
To: WAM Testimony
Cc: phhlca@aol.com
Subject: Submitted testimony for SB765 on Feb 24, 2017 09:35AM

SB765
Submitted on: 2/22/2017
Testimony for WAM on Feb 24, 2017 09:35AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Brown	Pana'ewa Hawaiian Home Lands Community Association	Support	No

Comments: Pana'ewa supports SB 765 on potential opportunities Bill Brown

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.