

STAND. COM. REP. NO. **484**-20

Honolulu, Hawaii

, 2020

FEB 14

RE: H.B. No. 2527

H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Housing, to which was referred H.B. No. 2527 entitled:

"A BILL FOR AN ACT RELATING TO THE LOW-INCOME HOUSING TAX CREDIT,"

begs leave to report as follows:

The purpose of this measure is to increase the amount of equity generated by the sale of the low-income housing tax credit (LIHTC) for affordable rental housing developments by eliminating conformity with the Internal Revenue Code (IRC) sections relating to at-risk rules; installment method; passive activity loss limitations; and partner's distributive share for state allocations.

Your Committee received testimony in support of this measure from the Hawaii Housing Finance and Development Corporation; Building Industry Association of Hawaii; Hawaii Regional Council of Carpenters; Stanford Carr Development, LLC; Castle & Cook Homes Hawaii, Inc.; and Chamber of Commerce Hawaii. Your Committee received comments on this measure from the Department of Taxation; Tax Foundation of Hawaii; Hawaii Appleseed Center for Law & Economic Justice; Land Use Research Foundation of Hawaii; Hunt Company Hawaii; Hunt Capital Partners, LLC; and Sugar Creek Capital.

HB2527 HD1 HSCR HSG HMS 2020-0988



Your Committee finds that the need for affordable housing in Hawaii is approaching or at a crisis point. Your Committee also finds that providing the LIHTC to developers and investors is a valuable tool in financing the development of affordable housing. However, current federal tax laws, such as the at-risk rule and passive activity loss limitations, may disqualify many developers and investors, except large corporations and financial institutions. This measure eliminates conformity to several Internal Revenue Code sections. Your Committee believes that this will allow more Hawaii residents to purchase LIHTC, thereby increasing competition of the LIHTC, which should increase the current price of fifty-five cents per dollar of credit and generate more equity toward affordable housing projects. According to testimony from the Hawaii Appleseed Center for Law & Economic Justice, Hawaii's LIHTC sells for less than other states due to supply and demand. For example, the sale price for one dollar of credit in Colorado is 70-73 cents, Wisconsin 70-71 cents, and Nebraska 65-70 cents, with Hawaii at only 54-58 cents.

Your Committee has amended this measure by:

- (1) Authorizing the LIHTC to be allocated amongst partners and members of a state partnership in any manner agreed to by the parties, even if the state partnership is not considered a partner for federal tax purposes;
- (2) Clarifying that, for purposes of deducting the LIHTC, net income tax liability means prior to reduction by any other credits allowed to the taxpayer under Hawaii income tax laws;
- (3) Extending the time to file a claim for the LIHTC from twelve to twenty-four months and authorizing the taxpayer to file an amended tax return with a Form 8609 that was received after the filing of the original tax return;
- (4) Clarifying that certain inoperative Internal Revenue Code provisions apply to qualified low-income buildings placed in service after December 31, 2020, and deleting the provision that excluded buildings that ceased to qualify as low-income buildings under the IRC;



- (5) Clarifying that allocations of partner distributions shall be made pursuant to a written agreement by the partners or members, rather than in proportion to the partners' allocation of the LIHTC;
- (6) Clarifying that the state LIHTC shall not exceed fifty percent of the federal credit allocated to the qualified low-income building for the ten-year federal credit period;
- (7) Deleting language that prohibited the state depreciation basis from exceeding the federal depreciation basis for qualified low-income buildings;
- (8) Changing its effective date to July 1, 2025, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2527, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2527, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Housing,


TOM BROWER, ~~Chair~~



