

**DAVID Y. IGE**  
GOVERNOR

**JOSH GREEN M.D.**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

P.O. BOX 259  
HONOLULU, HAWAII 96809  
Phone: (808) 587-1540  
Fax: (808) 587-1560

**RONA M. SUZUKI**  
DIRECTOR OF TAXATION

**DAMIEN A. ELEFANTE**  
DEPUTY DIRECTOR

To: The Honorable Stanley Chang, Chair;  
The Honorable Dru Mamo Kanuha, Vice Chair;  
and Members of the Senate Committee on Housing

From: Rona M. Suzuki, Director  
Department of Taxation

**Re: H.B. 2448, H.D. 1, Relating to Affordable Housing**

Date: Tuesday, March 10, 2020

Time: 1:45 P.M.

Place: Conference Room 225, State Capitol

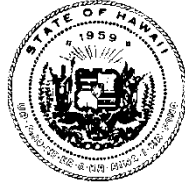
The Department of Taxation (Department) appreciates the intent of H.B. 2448, H.D. 1, and provides the following comments.

H.B. 2448, H.D. 1, expands the general excise tax (GET) exemption for certain low-income housing projects certified by the Hawaii Housing Finance Development Corporation (HHFDC) to include "third-party consulting" work. H.B. 2448, H.D. 1, also clarifies the timing of applicability of the GET exemption for any project certified by HHFDC. H.B. 2448, H.D. 1, has a defective effective date of July 1, 2025.

Under Hawaii Revised Statutes section 201H-36, HHFDC is responsible for certifying that a project is entitled to the GET exemption. Therefore, the Department defers to HHFDC regarding the merits of the expansion of the GET exemption and the extent to which this exemption may be claimed.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR



DENISE ISERI-MATSUBARA  
INTERIM 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  
**DENISE ISERI-MATSUBARA**  
Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON HOUSING**

March 10, 2020 at 1:45 p.m.  
State Capitol, Room 225

In consideration of  
**H.B. 2448, H.D. 1**  
**RELATING TO AFFORDABLE HOUSING.**

HHFDC offers the following comments to H.B. 2448, H.D. 1, which provides that the exemption from the General Excise Tax (GET) for certified or approved housing projects will be granted upon recordation of the project regulatory agreement.

This bill is not needed for the following reasons:

1. Pursuant to Section 201H-36(b), HRS, to obtain certification for exemption from GET, projects are required to enter into a regulatory agreement with the HHFDC; and
2. HHFDC's administrative rules for the program, Chapter 15-306, HAR, clearly state that the GET exemption shall be issued within 10 days of recordation of a project regulatory agreement committing the project to the appropriate minimum affordability terms as required in Section 201H-36(b), HRS.

Thank you for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Clarify Start of Affordable Housing Exemption

BILL NUMBER: HB 2448, HD-1

INTRODUCED BY: House Committee on Housing

EXECUTIVE SUMMARY: Provides that an exemption from the general excise tax established by section 201H-36, Hawaii Revised Statutes, that has been approved by the Hawaii housing finance and development corporation shall be provided once the qualified person or firm has filed or recorded the regulatory agreement in land court or the bureau of conveyances, whichever is appropriate. The bill might add clarity to the issue but might not be necessary because the HHFDC's administrative rules already cover the ground.

SYNOPSIS: Adds a new subsection to section 201H-36, HRS, to clarify that eligibility for the GET exemption under section 237-29, HRS, shall commence upon the filing or recordation of a regulatory agreement in the office of the assistant registrar of the land court or bureau of conveyances, or both, whichever is appropriate.

EFFECTIVE DATE: 7/1/2025.

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.

Act 54, SLH 2017, added another category of affordable rental housing project, where all 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, the developer would need to use a union contractor whose collective bargaining agreement or project labor agreement was properly submitted to DLIR under Hawaii's Little Davis-Bacon Act. Furthermore, the allowable GET and Use Tax costs apply to contracting only, are not to exceed \$7 million per year for all projects in this category, and this category sunsets on June 30, 2022.

Act 39, SLH 2018, expanded the second category by raising the cap to \$30 million and by moving the sunset date to June 30, 2030. It also added a proviso that an owner shall not refuse to lease a unit solely because the applicant uses a Section Eight voucher to pay some or all of the rent.

Re: HB 2448, HD-1  
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This bill is supposed to clarify the start of the exemption, and testimony before House Finance by HHFDC has stated that the bill may not be necessary because the matter is dealt with in HHFDC's administrative rules.

Digested 3/5/2020

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Testimony of The Michaels Organization | Michaels Development - Hawai'i Region  
RELATING TO House Bill 2448

Tuesday, March 10, 2020 at 1:45 am, Conference Room 225, State Capitol

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Chair Senator Stanley Chang; Vice Chair Senator Dru Mamo Kanuha; and  
Members Senator Sharon Y. Moriwaki; Senator Kurt Fevella; and Senator Laura H. Thielen  
Committee on Zoning, Planning and Housing

The unintended consequences of changing the timing of General Excise Tax (GET) Exemption approval from after award of funding by the Hawaii Housing Finance and Development Corporation (HHFDC) Board of Directors, which is when the planning, design, and entitlement activities commence in earnest, to the recording of the regulatory agreement at closing, is that payments made to the planner, architect, landscape architect, civil engineer, structural engineer, electrical engineer, acoustical engineer, accessibility engineer, LEED consultant, environmental engineer, geotechnical engineer, traffic engineer, noise engineer, wind and air quality engineer, archeologist, surveyor, economic/fiscal impact and cost/benefit analyzer, 201H exemptions consultant, preconstruction services, etc., must include the GET. This necessitates the affordable housing developer to use additional subsidy funds – more often than not from the Rental Housing Revolving Fund - to finance a substantial cost that was meant to be exempted per §237-29 HRS.

To remove this regulatory barrier that inhibits adding to the affordable housing inventory, a practical solution is to allow the GET exemption to be processed and approved by HHFDC once a Development Agreement between the affordable housing developer and the agency that is sponsoring the affordable housing project has been recorded.

Thank you for the opportunity to provide comments on House Bill 2448.



Karen Seddon, Regional Vice President  
Michaels Development

**LATE**

March 10, 2020

TO: The Honorable Stanley Chang, Chair  
Senate Committee on Housing

The Honorable Dru Mamo Kanuha, Vice Chair  
Senate Committee on Housing

FROM: Paul McElroy

**SUBJECT: HEARING OF MARCH 10, 2020  
TESTIMONY IN SUPPORT OF HB 2448  
RELATING TO AFFORDABLE HOUSING**

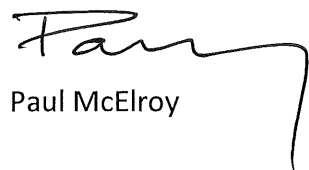
Dear Chair Chang, Vice Chair Kanuha and Committee Members,

Thank you for the opportunity to testify in **support** of this important measure. In order to address Hawai'i's affordable housing shortage, drastic actions must be taken. The Joint Economic Package of bills made it clear that affordable housing is one of the State's priorities. According to a study prepared by SMS Research & Marketing Services, Hawai'i will need an additional 50,156 housing units by 2025 with nearly seventy percent of those units designated as low-income households. By exempting developers from the general excise tax for qualifying housing projects once the qualifying taxpayer has filed or recorded a regulatory agreement in Land Court or the Bureau of Conveyances, or both, whichever is appropriate, it addresses the backlog that prevents many affordable housing developers from beginning their projects. Incentivizing affordable housing developers is the first step, but it will take systemic change to address the housing crisis.

I commend the legislature for recognizing that significant measures need to be undertaken to alleviate our backlog of affordable housing.

Thank you for the opportunity to provide my support for HB2448.

Sincerely,



Paul McElroy

**LATE**

**KOBAYASHI**  
GROUP

March 10, 2020

1288 Ala Moana Blvd. Suite 201  
Honolulu, Hawaii 96814  
tel (808) 524-1508  
fax (808) 524-0766  
web kobayashi-group.com  
email info@kobayashi-group.com

TO: The Honorable Stanley Chang, Chair  
Senate Committee on Housing

The Honorable Dru Mamo Kanuha, Vice Chair  
Senate Committee on Housing

FROM: Alana Kobayashi Pakkala

**SUBJECT: HEARING OF MARCH 10, 2020  
TESTIMONY IN SUPPORT OF HB 2448  
RELATING TO AFFORDABLE HOUSING**

Dear Chair Chang, Vice Chair Kanuha and Committee Members,

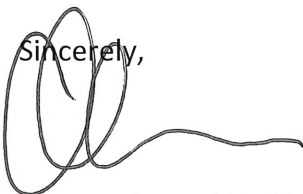
My name is Alana Kobayashi Pakkala, Chief Operating Officer & Partner of Kobayashi Group, LLC. Thank you for the opportunity to testify in **support** of HB2448 which provides that an exemption from the general excise tax established by section 201H-36, Hawaii Revised Statutes, that has been approved by the Hawai'i housing finance and development corporation shall be provided once the qualified person or firm has filed or recorded the regulatory agreement in land court of the bureau of conveyances, whichever is appropriate.

In order to address Hawai'i's affordable housing shortage, drastic actions must be taken. The Joint Economic Package of bills made it clear that affordable housing is one of the State's priorities. According to a study prepared by SMS Research & Marketing Services, Hawai'i will need an additional 50,156 housing units by 2025 with nearly seventy percent of those units designated as low-income households. By exempting developers from the general excise tax for qualifying housing projects once the qualifying taxpayer has filed or recorded a regulatory agreement in Land Court or the Bureau of Conveyances, or both, whichever is appropriate, it addresses the backlog that prevents many affordable housing developers from beginning their projects. Incentivizing affordable housing developers is the first step, but it will take systemic change to address the housing crisis.

I commend the legislature for recognizing that significant measures need to be undertaken to alleviate our backlog of affordable housing.

Thank you for the opportunity to provide my support for HB2448.

Sincerely,



Alana Kobayashi Pakkala  
Chief Operating Officer