

STAND. COM. REP. NO.

217

Honolulu, Hawaii

FEB 12 2021

RE: S.B. No. 659

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Housing, to which was referred S.B. No. 659
entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow state low-income housing tax credits to be allocated among the members or partners of a taxpaying entity in any manner that the parties see fit; and
- (2) Specify that certain provisions of the Internal Revenue Code related to at-risk rules, deductions, and passive activity losses do not apply with respect to claims for the state low-income housing tax credit.

Your Committee received testimony in support of this measure from Hunt Companies, Inc. and Sugar Creek Capital. Your Committee received comments on this measure from the Hawaii Housing Finance and Development Corporation, Department of Taxation, and Tax Foundation of Hawaii.

Your Committee finds that the partners or members of a taxpaying entity are in the best position to decide how to



allocate any low-income housing tax credits that have been earned in a taxable year.

Your Committee further finds that because the low-income housing tax credit law incorporates the Internal Revenue Code provisions that relate to at-risk rules and passive activity loss rules, it attracts only a small pool of investors. By amending the law to specify that the tax credit shall not be subject to those Internal Revenue provisions, the universe of potential investors is expected to increase, thereby creating a positive cycle of reinvestment into the local economy.

Your Committee has amended this measure by:

- (1) Changing "depreciation basis of the qualified low-income business" to "deductions and expenses" and clarifying that deductions and expenses claimed on a state income tax return cannot exceed the deductions and expenses claimed on a federal return;
- (2) Adding language that the relaxation of the installment method, at-risk, and passive activity loss rules shall not apply to any building that is no longer a qualified low-income building;
- (3) Replacing language to make it administratively easier for the Department of Taxation to apply the statutory changes on a taxable year basis;
- (4) Clarifying the language regarding the manner in which the parties may decide to allocate low-income housing tax credits within a taxpaying entity; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 S.B. No. 659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 659, S.D. 1, and be referred to your Committee on Ways and Means.




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


STANLEY CHANG, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Housing
HOU

Bill / Resolution No.:* SB 659	Committee Referral: HOU, WAM	Date: 02/04/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
CHANG, Stanley (C)	✓			
KANUHA, Dru Mamo (VC)	✓			
MORIWAKI, Sharon Y.	✓			
RHOADS, Karl	✓			
FEVELLA, Kurt	✓			
TOTAL	5	∅	∅	∅
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes