

DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
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:

Amended Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE

March 2, 2021 at 12:00 p.m.
State Capitol, Room 308

In consideration of
H.B. 80, H.D. 1
RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

The HHFDC **supports the intent** of H.B. 80, H.D. 1, **with amendments proposed by the Department of Taxation.** H.B. 80, H.D. 1 amends the income tax law with respect to the State Low-Income Housing Tax Credit (LIHTC) to increase the value of the State LIHTC. Increasing the value of the State LIHTC will make affordable rental housing developments more feasible to build.

The bill also extends the sunset date of amendments to the State LIHTC made in Act 129, SLH 2016 to December 31, 2027. Act 129, SLH 2016, amended the calculation of the State LIHTC by amending the applicable period over which the credit may be claimed from ten to five years to increase the attractiveness of the State LIHTC, and generate more equity to finance affordable rental housing development. Act 129 currently has a sunset date of December 31, 2021.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

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

To: The Honorable Sylvia Luke, Chair;
The Honorable Ty J.K. Cullen, Vice Chair;
and Members of the House Committee on Finance

From: Isaac W. Choy, Director
Department of Taxation

Date: March 2, 2021
Time: 1:00 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 80, H.D. 1, Relating to the Low-Income Housing Tax Credit

The Department of Taxation (Department) supports the intent of H.B. 80, H.D. 1, and offers the following comments for your consideration.

H.B. 80, H.D. 1, has a defective effective date of July 1, 2050 and otherwise applies to taxable years beginning after December 31, 2020. The bill amends the Low-Income Housing Tax Credit (LIHTC) provided under Hawaii Revised Statutes (HRS) section 235-110.8 by:

- Allowing the LIHTC to be allocated among the partners or members of the taxpayer in any manner chosen by the parties regardless of whether the partner or member is deemed a partner for federal income tax purposes;
- Allows individuals or entities to be admitted to the partnership after the end of the taxable year, but before the individual or entity files its tax return;
- Extending the sunset date of the changes made by Act 129, Session Laws of Hawaii 2016, from December 31, 2021 to December 31, 2027;
- Allowing the LIHTC to be claimed for the first-year based on the carryover allocation letter or section 42(m) letter if Form 8609 has not been received by the taxpayer;
- Relaxing the installment method, at-risk, and passive activity loss rules for qualified low-income buildings placed in service after December 31, 2020;
- Limits the relaxation of the installment method, at-risk, and passive activity loss rules to buildings that maintain their status as qualified low-income buildings; and
- Prohibiting the state deductions and expenses claimed by all Hawaii taxpayers on Hawaii income tax returns from exceeding the amount of deductions and expenses claimed by all taxpayers on federal returns.

The Department notes that generally a taxpayer's attributes are set on the final day of the taxable year. Acquisition of an interest in an entity such as a partnership does not apply retroactively. As such the Department strongly suggests that the amendment to subsection (b) that allows individuals or entities to be admitted to the partnership after the end of the taxable year, but before the individual or entity files its tax return be deleted. It is unclear why this provision is necessary and whether it supports the intent of increasing the availability of low-income housing in Hawaii.

In order to address these concerns, the Department respectfully requests that the following amendments be made to this measure:

Amend page 2, lines 1 through 6 to read: credit under this section may be allocated by the partnership or limited liability company the entity in any manner agreed to by the partners or members parties regardless of whether the individual or entity to receive the credit is deemed to be a partner or member for federal income tax purposes, so long as the individual or entity is deemed to be a partner or member pursuant to applicable state law.

Delete page 2, lines 9 through 15: For indivual or entities that are deemed to be a partner or member of the taxpayer pursuant to applicable state law, those individuals or entities shall have been admitted to the taxpayer pursuant to applicable state law on prior to the date od filing their respective tax return, including any amendments thereto, with respect to the year of the tax credit.

Thank you for the opportunity to provide testimony regarding this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 80, H.D. 1

March 2, 2021
12:00 p.m.
Via Videoconference

RELATING TO THE LOW-INCOME HOUSING TAX CREDIT

The Department of Budget and Finance (B&F) supports the intent, with the proposed amendments offered by the Department of Taxation (TAX), of House Bill (H.B.) No. 80, H.D. 1.

H.B. No. 80, H.D. 1, clarifies when and how members or partners of a taxpayer may claim the low-income housing tax credit; requires a Form 8609 for purposes of claiming the tax credit; specifies the application of tax provisions with respect to buildings or projects placed in service after December 31, 2020; and extends the sunset date of Act 129, SLH 2016, to December 31, 2027.

B&F notes that passage of this measure with the amendments proposed by TAX will help to effectively allocate private activity bonds under Chapter 39B, HRS.

Thank you for your consideration of our comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Low-Income Housing Credit, Allocations

BILL NUMBER: HB 80, HD1

INTRODUCED BY: House Committee on Housing

EXECUTIVE SUMMARY: Clarifies when and how members or partners of a taxpayer may claim the low-income housing tax credit. Requires a Form 8609 for purposes of claiming the tax credit. Specifies the application of tax provisions with respect to buildings or projects placed in service after 12/31/2020. Extends the sunset date of Act 129, Session Laws of Hawaii 2016, to 12/31/2027. Effective 7/1/2050.

SYNOPSIS: Amends section 235-110.8, HRS, to provide that the low-income housing tax credit may be allocated among the partners or members of the taxpayer earning the credit in any manner agreed to by such parties regardless of whether the individual or entity to receive the credit is deemed to be a partner or member for federal income tax purposes, so long as the individual or entity is deemed to be a partner or member pursuant to applicable state law.. In addition, any allocation of a tax credit under this section may be made among the partners or members of a taxpayer in accordance with the immediately preceding sentence provided such partners or members have been admitted to the taxpayer in accordance with applicable state law on or prior to the date for filing the partner's or member's tax return (including any amendments thereto) with respect to the year of the tax credit.

Requires the claimant to shall include a copy of Form 8609 issued by the corporation with respect to the building; provided that with respect to the first year that the credit is claimed for a qualified low-income housing project, if the taxpayer has not yet received the Form 8609 prior to the time the taxpayer files its original tax return claiming the credit under this section, the taxpayer may claim the credit based upon the amount of credit set forth in the carryover allocation or 42(m) letter, as applicable, issued to the qualified low-income housing project, and upon receipt of the Form 8609, the taxpayer shall: (1) Amend its tax return to include the Form 8609; and (2) If the credit amount in the Form 8609 is different than the amount of credit previously claimed, adjust the credit amount claimed on its amended return.

Amends section 235-110.8, HRS, to state that for any qualified low-income building that is placed in service after December 31, 2020:

(1) Section 453 (with respect to the installment method), section 465 (with respect to deductions limited to amount at risk), and section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall not be operative with respect to investments made in buildings and projects claiming the credit under this section;

(2) All allocations to partners of their distributive shares of income, loss, and deductions under chapter 235 shall be made in accordance with the written agreement of the partners or members;

(3) The total amount of state credits allocated by the corporation for the qualified low-income building shall not exceed fifty per cent of the amount of federal credits allocated to the building for the ten-year federal credit period; and

(4) The state depreciation basis of the qualified low-income building shall not exceed the federal depreciation basis of the building.

Disqualifies any building that ceases to serve low-income households in accordance with federal and state low-income housing tax credit programs.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: Act 216, SLH 1988, adopted for Hawaii purposes the federal low-income rental housing credit that was part of the Tax Reform Act of 1986. The credit was enacted to offset the repeal of tax shelters and other incentives to build rental housing under prior law, such as accelerated depreciation, capital gains preference, certain tax-exempt bonds, and to specifically target low-income rentals.

On the federal level, the tax credits and losses attributable to such a project are limited by a series of complex rules, including:

At-Risk Rules

For individuals, estates, trusts, and closely held C corporations, deductions of business- or investment-related losses from an activity for a tax year are limited to the amount the taxpayer is at risk. The amount at risk includes: (1) the amount of money and the adjusted basis of property contributed to an activity; (2) amounts borrowed with respect to the activity to the extent the taxpayer is personally liable for repayment or has pledged property, other than property used in the activity, as security for the borrowed amount; and (3) generally, amounts borrowed with respect to the activity of holding real property for which no person is personally liable for repayment (qualified nonrecourse financing). The amount at risk is also increased by the excess of items of income from an activity for the tax year over items of deduction from the activity for the tax year.

Unlike a partner's tax basis, the amount at risk can go negative, although not from recognition of losses. The consequence of a negative at-risk amount is the potential for at-risk recapture, which is the recognition of previously deducted losses as income in a year in which a taxpayer's amount at risk is negative, often as the result of a distribution. Recognition of at-risk recapture increases a partner's amount at risk.

Passive Activity Loss Rules

Passive activity loss rules are a set of IRS rules that prohibit using passive losses to offset earned or ordinary income. Passive activity loss rules prevent investors from using losses incurred from income-producing activities in which they are not materially involved.

Being materially involved with earned or ordinary income-producing activities means the income is active income and may not be reduced by passive losses. Passive losses can be used only to offset passive income.

The key issue with passive activity loss rules is material participation. According to IRS Topic No. 425, “material participation” is involvement in the operation of a trade or business activity on a “regular, continuous, and substantial basis.” If the taxpayer does not materially participate in the activity that is producing the passive losses, then those losses can only be matched against passive income. If there is no passive income, then no loss can be deducted. However, rental activities, including real estate rental activities, are considered passive activities even if there is material participation (“real estate professionals” cannot benefit from this exception).

Passive activity losses can only be applied in the current year, and if they exceed passive income they can be carried forward without limitation; they cannot be carried back.

In general, passive activity loss rules are applied at the individual level, but they also extend to virtually all businesses and rental activity in various reporting entities, except C corporations, to deter abusive tax shelters.

The proposal here is to make these rules inapplicable to investments in low-income housing projects.

Technical Concerns

The current draft provides that the low-income housing tax credit may be allocated among the partners or members of the taxpayer earning the credit in any manner agreed to by such parties regardless of whether the individual or entity to receive the credit is deemed to be a partner or member for federal income tax purposes, so long as the individual or entity is deemed to be a partner or member pursuant to applicable state law. That may confuse the partnership law definition of partner with the tax law definition of partner. The tax law definition of partner could be influenced by entity classification elections made at the entity level. For example, a limited liability company could elect to be a corporation for tax purposes, in which case no credit allocation is appropriate even though unit holders in the corporation are members pursuant to state law. Rather, the provision should depend on whether the individual or entity to receive the credit is deemed to be a partner for state income tax purposes.

The current draft contains a proviso that this subsection shall not apply to any building that ceases to serve low-income households in accordance with federal and state low-income housing tax credit programs. This standard is vague and may result in an entity being disqualified for spurious reasons.

Concluding Remarks

While this is just one incentive to encourage developers to build affordable housing, consideration should be given to several strategies including debt financing, partnerships with financial institutions who could then turn around and sell the credits, and the use of federal private activity bonds. Finally, one of the greatest contributors to the cost of housing in Hawaii

is the draconian maze of permitting and regulatory processes required to bring those homes to market. While those regulatory guidelines are to ensure the health and safety of the public, streamlining the process would accelerate the time needed to secure those permits thereby reducing the cost of financing. This savings would go a long way toward reducing the final cost of the house to the consumer.

Digested 2/27/2021

HB-80-HD-1

Submitted on: 3/1/2021 8:07:12 AM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Carney	EAH Housing	Support	No

Comments:

EAH Housing is in Strong Support of HB80 which we believe will help to increase the value of the State LIHTC by (1) extending the current sunset date of the five year utilization cycle from 12/31/21 to 12/31/27 and (2) increase the potential pool of eligible investors.

As the committee may be aware, local banks support affordable housing by investing in State LIHTCs. BUT, they are limited on the percentage of investment by banking regulations. It is my understanding that most, if not all, local banks have reached that limit and will not be able to support affordable housing with LIHTC investments for the next 5 years!

Therefore, it is critical that the pool of investors be expanded to support the continued production of affordable housing. On Feb 17, 2021 28 applications for funding were submitted to HHFDC requesting \$300,000,000 in RHRFs. It is very likely that less than half of these potential housing communities will be funded because of a limited State investor pool in LIHTCs and the lack of available funds in the RHRF.

Please support HB80. Thank you.



STANFORD CARR DEVELOPMENT, LLC

▪ March 1, 2021

The Honorable Nadine Nakamura, Chair
and Committee Members
Committee on Housing
State House of Representatives
State Capitol, Rm. 423
Honolulu, HI 96813

RE: HB 80 HD1 Relating to the Low-Income Housing Tax Credit

Dear Chair Nakamura and Members:

My name is Stanford Carr and I strongly support HB 80 Relating to the Low-Income Housing Tax Credit, which clarifies when and how a taxpayer(s) may claim the low-income tax credits and HB 908 Relating to the Low-Income Housing Tax Credit. In particular, the measure clearly outlines the process that must be used to claim the low-income tax credits. HB 80 further clarifies a process that will be used by HHFDC to claim the credit, by issuing a form that states the amount of credit that the available and may be claimed and HB 908 extends the repeal of Act 129 (2016) to December 31, 2026.

We believe that HB 80 will help investors in claiming the credit. The measure provides a check and balance mechanism that regulates who and when the low-income tax credit may be taken, and is a good step towards providing more investors an opportunity to participate in the State's low-income housing tax credit program.

We also believe that with HB 908, extending the repeal date from December 31, 2021 to December 31, 2026, creates more opportunity to build affordable housing, which is desperately needed.

We strongly support both HB 80 and HB 903 Relating to Low-Income Affordable Housing.

Thank you for this opportunity to testify.

A handwritten signature in black ink, appearing to read 'Stanford S. Carr', written over a horizontal line.

Stanford S. Carr

TESTIMONY IN SUPPORT OF HB80 HD1

HAWAII STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

Rep. Patrick Pihana Branco	Rep. Amy A. Perruso
Rep. Stacelynn K.M. Eli	Rep. Jackson D. Sayama
Rep. Daniel Holt	Rep. Adrian K. Tam
Rep. Greggor Ilagan	Rep. Tina Wildberger
Rep. Bertrand Kobayashi	Rep. Kyle T. Yamashita
Rep. Lisa Marten	Rep. Bob McDermott
Rep. Scott Y. Nishimoto	

Tuesday, March 2, 2021 at 12:00 PM

Aloha Chair Luke, Vice-Chair Cullen and Members of the Committee:

My name is Christopher Abbott and I am a Vice President at Bank of Hawaii and manage the affordable housing initiatives at the bank.

Bank of Hawaii supports HB80 HD1 which, among its provisions, clarifies when and how members or partners of a taxpayer may claim the state low-income housing tax credit, specifies the application of tax provisions with respect to buildings or projects in service in 2021 and later, and extends to December 31, 2027 the sunset date of the state low-income housing tax credit finance tool created by Act 129, Session Law of Hawaii 2016.

This bill would bring additional financial support for the development of affordable housing across the state and would help address the affordable housing crisis in Hawaii, especially during this economic downturn. The provisions to broaden the definition of members or partners of a taxpayer which may claim the state low-income housing tax credit would come at little to no cost to the State, while simultaneously supporting the pricing of the state low income housing tax credit to project sponsors.

As the Hawaii Housing Finance and Development Corporation noted in testimony last month, this legislation would support efforts to maximize the value of the State Low Income Housing Tax Credit, which would increase the available equity and the feasibility of the construction and operation of affordable rental housing developments across the State.

Thank you for the opportunity to submit testimony in support of HB80 HD1.



Mobile: 808.428.8717
Email: lindaschatz@schatzcollaborative.com
Schatzcollaborative.com

March 1, 2021

Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J. K. Cullen, Vice Chair

Re: HB 80 HD1 – IN SUPPORT

Aloha Chair Luke,

One of Hawaii's most important affordable housing tools is at a crossroads. The state's affordable housing tax credit has proven to be an incredible driver of unit production since its inception, but the credit needs to be preserved and reformed to create more units at its current funding level.

HB 80 HD1 is aimed primarily at ensuring that the maximum amount of equity is raised from the sale of these credits. By amending the rules which currently preclude individuals and other closely held C-corps from investing in these credits, more taxpayers will be able to purchase the credits. Driving up demand for the credits will drive up pricing and result in more money being paid for credits. Higher credit pricing will result in more units built –without increasing the amount of credits issued by the state of Hawaii.

Additionally, HB 80 HD1 seeks to clarify the partnership structuring rules for Hawaii taxpayers as well as the administrative process by which these Hawaii taxpayers claim the credits. Strengthening the confidence of current taxpayers and expanding the market of purchasers will help to establish balance in the credit market and result in more affordable units for Hawaii.

We all know that Hawaii suffers from one of the worst housing affordability problems in the country. Given the events of this very difficult past year, this problem will only get worse. Due to limited state funding availability, the need for private equity investment is more critical than ever. To secure this funding, we respectfully request you schedule and pass out HB 80 HD 1 so we can address this ever expanding issue.

Thank you again for the opportunity to share my testimony. If there are any questions, or if additional information is needed, please do not hesitate to contact me at (808)428-8717.

Warmest Regards,

A handwritten signature in black ink that reads "Linda Schatz". The signature is fluid and cursive.

Linda Schatz
Principal

Testimony of Sugar Creek Capital

Senate Committee on Finance

**Tuesday, March 2, 2021
12:00 p.m.
State Capitol, Conference Room 308**

**On the following measure:
H.B. 80 HD1, RELATING TO THE LOW-INCOME HOUSING TAX CREDIT**

Aloha Chair Luke, Vice-Chair Cullen and Members of the Committee:

Sugar Creek Capital specializes in state low-income housing tax credit investments that benefit working families and fixed-income seniors across the state and the country.

After further discussion with the Department of Taxation, **Sugar Creek Capital testifies in support of HB 80 HD1 with amendments.**

Key Points about LIHTC:

- Hawaii's state affordable housing tax credit is a long-standing, proven tool that allows for thousands of Hawaii residents to live with dignity.
- The proposed measures in HB 80 HD1 will allow for this program to serve even more Hawaii residents at little to no cost to the state.
- Affordable housing developers use Hawaii tax credits to raise equity from investors. With these tax credit equity investments, rents in these units stay well below market rate rents far into the future.
- Affordable housing tax credit investors sell these credits to Hawaii taxpayers who then in turn use them to offset their tax liability.

Proposed Amendments:

These proposed amendments aim to provide clarification to the LIHTC process and ensure alignment with the tax code.

- Page 2, (b), line 1-4: amend the following:

“...credit under this section may be allocated by the entity [the partnership or limited liability] in any manner agreed to by the parties [partners or members] regardless of whether the individual or entity to receive the credit is deemed to be a partner or member for federal income tax purposes...”

- Page 2, (b), lines 9 - 15: delete the following:

~~“For individuals or entities that are deemed to be a partner or member of the taxpayer pursuant to applicable state law, those individuals or entities shall have been admitted to the taxpayer pursuant to applicable state law on or prior to the date of filing their respective tax return, including any amendments thereto, with respect to the year of the tax credit.”~~

We respectfully request this Committee pass HB 80 HD1 out with the proposed amendments so we can continue to address the incredible housing need in Hawaii.

Mahalo for the opportunity to provide testimony.



Hunt Companies, Inc.
737 Bishop St., Suite 2750
Honolulu, HI 96813
808-585-7900

Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair
Committee on Finance

RE: **HB 80 HD1 Relating to the Low-Income Housing Tax Credit – In Strong Support**
March 2, 2021; 12:00 PM; via Videoconference; Agenda #2

Aloha Chair Luke, Vice Chair Cullen and members of the committee:

Hunt Companies – Hawaii and Hunt Capital Partners LLC appreciate this opportunity to submit testimony in strong support of HB 80 HD1, which clarifies when and how members or partners of a taxpayer may claim the low-income housing tax credit, requires a Form 8609 for purposes of claiming the tax credit and specifies the application of tax provisions with respect to buildings or projects placed in service after 12/31/2020. It also extends the sunset date of Act 129, Session Laws of Hawaii 2016, to 12/31/2027.

This bill aims to expand the market of tax credit buyers and in turn, increase the price paid for these credits. A broader and more competitive marketplace for these tax credits will compel higher equity pricing and result in more affordable units in Hawaii.

We respectfully request your consideration of the following amendments to address concerns raised by the Department of Taxation:

- **Line 1 of page 2 – replace “entity” with “the partnership or limited liability company”;**
- **Line 2 of page 2 - replace “parties” with “partners or members”; and**
- **Delete lines 9-15 on page 2, beginning with “For individuals or entities that . . . “**

Thank you for all your efforts to address Hawaii’s affordable housing crisis. We ask for your favorable consideration in passing HB 80 HD1 with our requested amendments.

Steven W. Colón
President – Hawaii Division

Jeff Weiss
President, Hunt Capital Partners, LLC

Sandra-Ann Y.H. Wong

Attorney at Law, a Law Corporation

1050 Bishop Street, #514

Honolulu, Hawaii 96813

**TESTIMONY IN SUPPORT OF HB80, HD1
HOUSE COMMITTEE ON FINANCE
TUESDAY, MARCH 2, 2021 at NOON**

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee:

On behalf of Dowling Company, Inc., thank you for the opportunity to provide testimony in support of HB80, HD1.

Dowling Company, Inc. supports this measure because it aims to expand the market of tax credit buyers and in turn, increase the price paid for these credits. A broader and more competitive marketplace for these tax credits will compel higher equity pricing and result in more affordable units in Hawaii.

Thank you for the opportunity to testify in support of this measure.



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

650 Iwilei Road, Suite 285 · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300

HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, March 2, 2021
TIME: 12:00 p.m.
PLACE: Via Videoconference
Conference Room 308
State Capitol
415 South Beretania Street

TESTIMONY ON HB80 HD1

TO THE HONORABLE SYLVIA LUKE, CHAIR, TY CULLEN, VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

Hawaii LECET is a labor-management partnership between the Hawaii Laborers' International Union of North America, Local 368, its' 5000+ members and its' 250+ unionized contractors. The Laborers' International Union of North America is the largest construction union in the United States.

Hawaii LECET strongly supports HB80 HD1, which clarifies how investors and taxpayers may claim the low-income housing tax credit. HB80 HD1 provides clarity regarding the partnership structuring rules for Hawaii taxpayers and the administrative process required to claim the low-income housing tax credits. As it is currently written, HB80 HD1 will ensure that the maximum amount of equity is raised from the sale of these credits. Additionally, HB80 HD1 helps to incentivize and encourage investors to develop affordable housing projects statewide by allowing more taxpayers to purchase the credits. Increased demand of these credits will ensure higher credit pricing, with the result being more units are built, without increasing the amount of credits issued by the State of Hawaii.

According to the National Low Income Housing Coalition, Hawaii has a severe shortage of affordable housing. The U.S. News and World Report ranks Hawaii last in affordability. Given the current affordable housing shortage in Hawaii, the need for private equity investment is crucial. Hawaii LECET strongly supports HB80 HD1 and requests your consideration and support.

With respect,

Hawaii Laborers-Employers Cooperation & Education Trust



March 1, 2021

HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021
COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

Re: HB 80 HD1

Aloha Chair Luke,

One of Hawaii's most important affordable housing tools is at a crossroads – the Hawaii State Low Income Housing Tax Credit (State LIHTC). State and Federal low-income housing tax credits are one of the most effective tools ever created for financing the development of affordable housing. Enacted in 1986 as a way to encourage private investment, the credit has helped fund more than 2.7 million new homes that are affordable to low-income families, the formerly homeless, the elderly, the mentally handicapped and others with special needs. It supports 90% of all affordable rental housing developments and creates more than 150,000 jobs each year according to the National Equity Fund.

The state's affordable housing tax credit has proven to be an incredible driver of unit production since its inception, but the **credit needs to be preserved and reformed in order to create more units at its current funding level.** The goal of HB 80 HD1 is aimed primarily at ensuring that the maximum amount of equity is raised from the sale of these credits. By amending the rules, more taxpayers will be able to purchase the credits. **Currently, legislation preclude individuals and other closely held C-corps from investing in these credits which restricts demand. Driving up demand for the State LIHTC credits will fully leverage this resource.** As demand increases, so will State LIHTC pricing and result in more money being paid for State LIHTC credits, resulting in more money to each affordable housing project thereby reducing reliance on other scarce affordable housing funding sources. Higher credit pricing will result in more units built –**without increasing the amount of credits issued by the state of Hawaii.**

Additionally, HB 80 HD1 seeks to clarify the partnership structuring rules for Hawaii taxpayers as well as the administrative process by which these Hawaii taxpayers claim the credits.

Office:
243 Kakahiaka Street
Kailua, HI 96734
Phone: 808-321-5716



**Affordable Housing Development
Hawaii, LLC (AHDH)**

Strengthening the confidence of current taxpayers and expanding the market of purchasers will help to establish balance in the credit market and result in more affordable units for Hawaii.

We all know that Hawaii suffers from one of the worst housing affordability problems in the country. Based on the 2020 National Low Income Housing Coalition, Hawaii ranks #1 as the highest cost burden state in the nation beating States such as California and New York. Renters with the lowest incomes face the greatest challenge in finding affordable housing. ***In Hawaii, the average minimum wage worker must work nearly 117 hours per week or 16.7 hours per day to afford a one-bedroom rental home at the average fair market rent.***

Given the events of this very difficult past year, this problem will only get worse. Due to limited state funding availability, the need for private equity investment is more critical than ever. To secure this funding, we respectfully request you schedule and pass out HB 80 HD 1 so we can address this ever expanding issue.

Mahalo,

Monika Rossen

Monika Mordasini Rossen, President
Affordable Housing Development Hawaii

Office:
243 Kakahiaka Street
Kailua, HI 96734
Phone: 808-321-5716

HAWAII

#1*

In **Hawaii**, the Fair Market Rent (FMR) for a two-bedroom apartment is **\$2,015**. In order to afford this level of rent and utilities — without paying more than 30% of income on housing — a household must earn **\$6,718** monthly or **\$80,613** annually. Assuming a 40-hour work week, 52 weeks per year, this level of income translates into an hourly Housing Wage of:

\$38.76
PER HOUR
STATE HOUSING
WAGE

FACTS ABOUT HAWAII:

STATE FACTS	
Minimum Wage	\$10.10
Average Renter Wage	\$17.17
2-Bedroom Housing Wage	\$38.76
Number of Renter Households	190,420
Percent Renters	42%

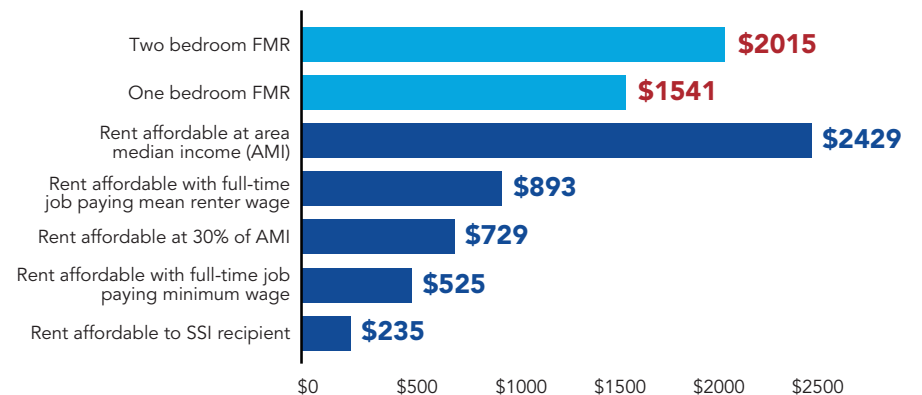
153
Work Hours Per Week At
Minimum Wage To Afford a **2-Bedroom**
Rental Home (at FMR)

117
Work Hours Per Week At
Minimum Wage To Afford a **1-Bedroom**
Rental Home (at FMR)

3.8
Number of Full-Time Jobs At
Minimum Wage To Afford a
2-Bedroom Rental Home (at FMR)

2.9
Number of Full-Time Jobs At
Minimum Wage To Afford a
1-Bedroom Rental Home (at FMR)

MOST EXPENSIVE AREAS	HOUSING WAGE
Honolulu MSA	\$41.54
Kauai County	\$36.17
Kalawao County	\$33.83
Maui County	\$33.83
Hawaii County	\$27.48



MSA = Metropolitan Statistical Area; HMFA = HUD Metro FMR Area.

* Ranked from Highest to Lowest 2-Bedroom Housing Wage. Includes District of Columbia and Puerto Rico.

HAWAII

	FY20 HOUSING WAGE				HOUSING COSTS				AREA MEDIAN INCOME (AMI)				RENTERS			
	Hourly wage necessary to afford 2 BR ¹ FMR ²	2 BR FMR	Annual income needed to afford 2 BMR FMR	Full-time jobs at minimum wage to afford 2BR FMR ³	Annual AMI ⁴	Monthly rent affordable at AMI ⁵	30% of AMI	Monthly rent affordable at 30% of AMI	Renter households (2014-2018)	% of total households (2014-2018)	Estimated hourly mean renter wage (2020)	Monthly rent affordable at mean renter wage	Full-time jobs at mean renter wage needed to afford 2 BR FMR			
Hawaii	\$38.76	\$2,015	\$80,613	3.8	\$97,168	\$2,429	\$29,151	\$729	190,420	42%	\$17.17	\$893	2.3			
Combined Nonmetro Areas	\$29.81	\$1,550	\$62,015	3.0	\$81,789	\$2,045	\$24,537	\$613	30,958	34%	\$14.63	\$761	2.0			
<u>Metropolitan Areas</u>																
Honolulu MSA	\$41.54	\$2,160	\$86,400	4.1	\$101,600	\$2,540	\$30,480	\$762	137,828	44%	\$18.05	\$939	2.3			
Kalawao County HMFA †	\$33.83	\$1,759	\$70,360	3.3	\$97,500	\$2,438	\$29,250	\$731	45	96%						
Maui County HMFA	\$33.83	\$1,759	\$70,360	3.3	\$97,500	\$2,438	\$29,250	\$731	21,589	40%	\$15.49	\$806	2.2			
<u>Counties</u>																
Hawaii County	\$27.48	\$1,429	\$57,160	2.7	\$75,200	\$1,880	\$22,560	\$564	22,645	33%	\$14.67	\$763	1.9			
Honolulu County	\$41.54	\$2,160	\$86,400	4.1	\$101,600	\$2,540	\$30,480	\$762	137,828	44%	\$18.05	\$939	2.3			
Kalawao County †	\$33.83	\$1,759	\$70,360	3.3	\$97,500	\$2,438	\$29,250	\$731	45	96%						
Kauai County	\$36.17	\$1,881	\$75,240	3.6	\$101,800	\$2,545	\$30,540	\$764	8,313	37%	\$14.56	\$757	2.5			
Maui County	\$33.83	\$1,759	\$70,360	3.3	\$97,500	\$2,438	\$29,250	\$731	21,589	40%	\$15.49	\$806	2.2			

† Wage data not available (See Appendix B).

1: BR = Bedroom
 2: FMR = Fiscal Year 2020 Fair Market Rent.
 3: This calculation uses the higher of the county, state, or federal minimum wage, where applicable.
 4: AMI = Fiscal Year 2020 Area Median Income
 5: Affordable rents represent the generally accepted standard of spending not more than 30% of gross income on gross housing costs.

Testimony of
Pacific Resource Partnership

House Committee on Finance
The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair

HB80 HD1—Relating to Low-Income Housing Tax Credit

Tuesday, March 2, 2021
12:00 P.M.
Conference Room 308

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee:

Pacific Resource Partnership (PRP) writes in strong support of HB80 HD1.

The state’s affordable housing tax credit has proven to be a driver of unit production since its inception, however the credit needs to be preserved and reformed in order to create more units at its current funding level.

HB 80 HD1 is aimed primarily at ensuring that the maximum amount of equity is raised from the sale of these credits. By amending the rules which currently preclude individuals and other closely held C-corps from investing in these credits, more taxpayers will be able to purchase the credits. Driving up demand for the credits will drive up pricing and result in more money being paid for credits. Higher credit pricing will result in more units built –without increasing the amount of credits issued by the state of Hawaii.

Additionally, HB 80 HD1 seeks to clarify the partnership structuring rules for Hawaii taxpayers as well as the administrative process by which these Hawaii taxpayers claim the credits. Strengthening the confidence of current taxpayers and expanding the market of purchasers will help to establish balance in the credit market and result in more affordable units for Hawaii.

Given Hawaii’s need to build more affordable housing and the limited state funding available to do so, the need for private equity investment is more critical than ever. To secure this funding, we respectfully request your favorable decision on this measure. Thank you for this opportunity to submit written testimony.





Testimony of the Ahe Group
RE: HB 80 HD1

Tuesday, March 2, 2021 at 12:00 noon

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Rep. Ty J.K. Cullen, Vice Chair

Aloha Chair Luke,

One of Hawaii's most important affordable housing tools is at a crossroads. The state's affordable housing tax credit has proven to be an incredible driver of unit production since its inception, but the credit needs to be preserved and reformed in order to create more units at its current funding level.

HB 80 HD1 is aimed primarily at ensuring that the maximum amount of equity is raised from the sale of these credits. By amending the rules which currently preclude individuals and other closely held C-corps from investing in these credits, more taxpayers will be able to purchase the credits. Driving up demand for the credits will drive up pricing and result in more money being paid for credits. Higher credit pricing will result in more units built –without increasing the amount of credits issued by the state of Hawaii.

Additionally, HB 80 HD1 seeks to clarify the partnership structuring rules for Hawaii taxpayers as well as the administrative process by which these Hawaii taxpayers claim the credits. Strengthening the confidence of current taxpayers and expanding the market of purchasers will help to establish balance in the credit market and result in more affordable units for Hawaii.

We all know that Hawaii suffers from one of the worst housing affordability problems in the country. Given the events of this very difficult past year, this problem will only get worse. Due to limited state funding availability, the need for private equity investment is more critical than ever. To secure this funding, we respectfully request you schedule and pass out HB 80 HD 1 so we can address this ever-expanding issue.

Mahalo,

A handwritten signature in blue ink that reads 'Makani Maeva'.

Makani Maeva
President



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
TUESDAY, MARCH 2, 2021 AT 12:00 P.M.**

To The Honorable Sylvia Luke, Chair;
The Honorable Ty J.K. Cullen, Vice Chair; and
Members of the Committee on Finance,

SUPPORT HB80 HD1 RELATING TO THE LOW-INCOME HOUSING TAX CREDIT

Aloha, my name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment. I am writing to share our support of HB80 HD1.

The Maui Chamber of Commerce strongly supports affordable housing and rentals. We appreciate that this bill will expand the market for low-income housing tax credits, thus driving up demand and increasing their price, which will provide more funding for the creation of new low-income housing units. Low-income housing tax credits are critical to getting more affordable housing and rentals built and without this bill, we understand fewer units will get built each year. We cannot afford to lose potential units as we are in a housing crisis.

Mahalo for your consideration of our testimony and ask that you please pass this bill.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



HAWAI' APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB80 – Relating to Low-Income Housing Tax Credit
 House Committee on Finance
 Tuesday, March 2nd, 2021 at 12:00 PM, Conference Room 308

Dear Chair Luke and members of the House Committee on Finance,

Thank you for the opportunity to provide testimony **strongly supporting HB80**. The state Low-Income Housing Tax Credit (LIHTC) program provides vital funding for low-income housing projects. The program matches federal tax credits, helping the state to leverage more federal funds for affordable housing projects. *For every \$1 of state tax credits put toward a housing project, \$2 of federal tax credits are invested in the same project.*

LIHTC works by giving tax credits to investors in exchange for cash to pay for low-income housing developments. However, the current rules on state LIHTC only allow for banks and insurance companies to purchase state LIHTC which has depressed demand and the selling price of the credit. As a result, Hawai'i gets less value from its credits than it otherwise could.

Hawai'i LIHTC sells for less than other states due to supply and demand of credits

Unfortunately, the state Low Income Housing Tax Credits currently sell for only about 60 cents per future dollar of credit, whereas other states with similar LIHTC programs sell credits for 65-73 cents per dollar of tax credit. The reason for this is simply supply and demand: Hawai'i sells more credits relative to other states, and the number of potential buyers is restricted due to federal rules which were adopted by the state program. See chart below for pricing comparison with other state LIHTC:

State	State LIHTC Price	Pop. (2019)	State Credits ¹ Allocated (2018)	Credits per person
Colorado	70-73 cents	5,759,000	\$28,489,062	\$4.95
Wisconsin	70-73 cents	5,822,000	\$39,725,964	\$6.82
Nebraska	65-70 cents	1,934,000	\$31,800,000	\$16.44
Hawai'i	59-64 cents	1,416,000	\$40,953,890	\$28.90

¹ Colorado: https://www.chfainfo.com/arh/lihtc/LIHC_Documents/2018COStateAHTC_YE_ReportLetter.pdf
 Wisconsin: <https://www.wheda.com/HTC/2018-program/>
 Nebraska: https://www.omaha.com/money/nebraska-s-new-state-tax-credit-yields-less-lower_cost/article_decc5744-bd4a-5fcf-9fcc-ef48e7303adc.html

Currently less than 50 investors purchase State LIHTC due to investor restrictions

Hawaii has a very limited number of current state LIHTC investors. The most recent numbers released by DoTax show that in 2017 there were only 29 investors who claimed state LIHTC.² The previous year showed a total of 49 LIHTC investors.³ This is because state regulations do not specifically exempt Hawaii State LIHTC investors from rules imposed on federal LIHTC investors.

Exempting state program from Federal investor restrictions makes sense

These federal regulations, which relate to investors being “at-risk” and using “passive-activity losses” were intended to prevent federal tax abuse from real estate investment. They were never intended to be applied to state LIHTC programs.

The reason for the restrictions is to ensure that investors have money at risk in order to claim depreciation losses from a housing project against their tax liability. However, state LIHTC investors do not use depreciation and other losses from the project to offset state tax liability.⁴ Their benefit as investors is simply the value of the future tax credit. In fact, state LIHTC investors are typically only 1% or even 0.01% partners in a LIHTC project since they do not claim depreciation and losses from a project and have no use for this tax benefit from LIHTC projects. Since state LIHTC investors do not use the benefit of claiming depreciation and other losses from a LIHTC from their tax liability, it makes sense to eliminate those restrictions from the state LIHTC program.

LIHTC price will drop if investor rules are NOT changed

Over \$150M of state LIHTC was awarded in 2019 and 2020⁵, to support affordable housing and now more buyers are needed. That amount is more than double the usual amount of LIHTC, which is good for affordable housing development, but if the pool of buyers is not expanded the price paid for tax credits will drop.

Without a change in state LIHTC rules, the same few dozen large financial institutions and insurance companies will be asked to purchase a much larger supply of state LIHTC. The law of supply and demand predicts that prices for state LIHTC will fall without more buyers to purchase the credits.

Price of LIHTC could drop by 20 cents, costing the State approximately \$20M in lost housing funds.

Based on historical Hawaii State LIHTC pricing and data from other states with similar LIHTC programs, without more buyers the price that the current investors will pay for \$1 of credit could drop to between 40-50 cents per dollar, compared to the current value of 59-64 cents. With over

² Dec. 2020, DOTAX report, “Tax Credits Claimed by Hawaii Taxpayers, Tax Year 2018.”

³ Dec 2019, DOTAX report, “Tax Credits Claimed by Hawaii Taxpayers, Tax Year 2017”

⁴ Analysis of LIHTC pro-formas. State LIHTC investors are allowed less than 1% of depreciation benefits, because the Federal LIHTC investors claim 99% of the depreciation benefits. State investors do not use this tax benefit.

⁵ HHFDC LIHTC awards list: dbedt.hawaii.gov/hhfdc/developers/copy_of_copy_of_rhtf_html/

\$100M in state LIHTC yet to be sold to investors, a price drop from 64 cents per credit to 40 cents per credit would result in \$24M less in funding for affordable housing. Even the most conservative price drop estimate of 59 cents to 50 cents per credit would result in \$9M less funding for affordable housing projects.

Allowing more buyers to purchase state LIHTC will stabilize and increase LIHTC pricing, with little or no cost to the State.

By taking advantage of the fact that State LIHTC investors do not use passive-activity loss and depreciation benefits in the same way as Federal LIHTC investors, the State can expand the pool of LIHTC buyers without the risk of program abuse. Although there are some administrative costs with updating the LIHTC buyer rules, any costs would be far less than the millions of dollars lost in affordable housing funds if the rules are not updated.

At a time when Hawai'i needs to use every tool available to increase affordable housing we strongly urge you to pass this bill, which will increase funds for affordable housing, now and in future years.



LiUNA!

Testimony of the Hawaii Laborers' Union Local 368
1617 Palama Street
Honolulu, HI 96817

PETER A. GANABAN
Business Manager/
Secretary-Treasurer

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

JAMES DRUMGOLD JR.
Executive Board

ORLANDO PAESTE
Executive Board

JOSEPH YAW
Executive Board

ESTHER AILA
Auditor

RUSSELL NAPIHAA
Auditor

MARK TRAVALINO
Auditor

MARTIN ARANAYDO
Sergeant-At-Arms

LiUNA Local 368
1617 Palama Street
Honolulu, HI 96817
Phone: (808) 841-5877
Fax: (808) 847-7829
www.local368.org

Meeting: House Committee on Finance
Date: March 2, 2021
Time: 12:00 p.m.
Place: Virtual Online Meeting

Re: HB 80 HD1

Aloha Chair Luke, Vice Chair Cullen, and Committee members,

The Hawaii Laborers' Union is made up of 5,000 working and retired men and women across the state of Hawaii and we **support** HB80 HD1.

One of Hawaii's most important affordable housing tools is at a crossroads. The state's affordable housing tax credit has proven to be an incredible driver of unit production since its inception, but the credit needs to be preserved and reformed in order to create more units at its current funding level.

HB 80 HD1 is aimed primarily at ensuring that the maximum amount of equity is raised from the sale of these credits. By amending the rules which currently preclude individuals and other closely held C-corps from investing in these credits, more taxpayers will be able to purchase the credits. Driving up demand for the credits will drive up pricing and result in more money being paid for credits. Higher credit pricing will result in more units built —without increasing the amount of credits issued by the state of Hawaii.

Additionally, HB 80 HD1 seeks to clarify the partnership structuring rules for Hawaii taxpayers as well as the administrative process by which these Hawaii taxpayers claim the credits. Strengthening the confidence of current taxpayers and expanding the market of purchasers will help to establish balance in the credit market and result in more affordable units for Hawaii.

Therefore, the Hawaii Laborers' Union Local 368 supports HB80 HD1, and respectfully requests that this committee take favorable action on this measure.

Respectfully,
Ryan Kobayashi
Government Affairs

Feel the Power

Re: HB 80 HD1

Aloha Chair Luke,

One of Hawaii's most important affordable housing tools is at a crossroads. The state's affordable housing tax credit has proven to be an incredible driver of unit production since its inception, but the credit needs to be preserved and reformed in order to create more units at its current funding level.

HB 80 HD1 is aimed primarily at ensuring that the maximum amount of equity is raised from the sale of these credits. By amending the rules which currently preclude individuals and other closely held C-corps from investing in these credits, more taxpayers will be able to purchase the credits. Driving up demand for the credits will drive up pricing and result in more money being paid for credits. Higher credit pricing will result in more units built —without increasing the amount of credits issued by the state of Hawaii.

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We all know that Hawaii suffers from one of the worst housing affordability problems in the country. As a contractor that builds and works closely with Developers of these projects, all of the projects are dependent on the housing tax credits. The importance to deliver quality projects are greatly impacted by HB 80 HD1.

Given the events of this very difficult past year, this problem will only get worse. Due to limited state funding availability, the need for private equity investment is more critical than ever. To secure this funding, we respectfully request you schedule and pass out HB 80 HD 1 so we can address this ever expanding issue.

Mahalo,

A handwritten signature in black ink, appearing to read "Jonathan W. Kam". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jonathan W. Kam
Moss & Associates
Business Development Director