

STAND. COM. REP. NO. 926

Honolulu, Hawaii

MAR 05 2021

RE: S.B. No. 659
S.D. 2

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

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 659, S.D. 1, 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 make certain amendments to the State's low-income housing tax credit.

More specifically, the measure:

- (1) Allows the tax credit to be allocated among the partners or members of the taxpayer earning the credit in any manner by those parties; and
- (2) Requires claims for the tax credit to include copies of applicable federal tax documents;
- (3) Provides that for taxable years after December 31, 2020:
 - (A) Certain federal provisions relating to the installment method, risk, and passive activity shall not be operative;
 - (B) All allocations to partners or members of their distributive shares of income, loss, and deductions



under state income tax law shall be made in accordance with the written agreement of the partners or members;

- (C) The total amount of state credits allocated for the qualified low-income building shall not exceed fifty per cent of the total amount of federal credits allocated to the building for the ten-year federal credit period; and
- (D) The deductions and expenses claimed by all Hawaii taxpayers on Hawaii income tax returns shall not exceed the deductions and expenses claimed by all taxpayers on federal returns;

provided that the foregoing shall not apply to any building that ceases to be a qualified low-income building; and

- (4) Extends from December 31, 2021, to December 31, 2027, the sunset of certain provisions relating to the tax credit that were established by Act 129, Session Laws of Hawaii 2016.

Your Committee received written comments in support of this measure from EAH Housing; Bank of Hawaii; Dowling Co., Inc.; Hunt Companies - Hawaii; Hunt Capital Partners, LLC; Schatz Collaborative, LLC; Pacific Resource Partnership; Maui Chamber of Commerce; NAIOP Hawaii; Sugar Creek Capital; and Faith Action Housing NOW!

Your Committee received written comments on this measure from the Department of Taxation, Hawaii Housing Finance and Development Corporation, and Tax Foundation of Hawaii.

Your Committee believes that partners or members of a partnership or limited liability company should be able to decide how to allocate any low-income housing tax credits earned during a taxable year. Your Committee recognizes that because the State's low-income housing tax credit law incorporates the federal tax provisions that relate to at-risk rules and passive activity loss rules, the state tax credit attracts a limited scope of investors. Accordingly, your Committee believes that by specifying that the



state tax credit shall not be subject to federal tax provisions, the scope of taxpayers who will use the tax credit will increase and thus spur investment in such developments.

Your Committee has amended this measure by:

- (1) Specifying that the low-income housing tax credit may be allocated by the partnership or limited liability company in any manner agreed to by the partners or members, so long as the individual or entity is deemed to be a partner or member pursuant to applicable state law;
- (2) Deleting language allowing an individual or an entity to be admitted to a partnership after the end of the taxable year, but before the individual or entity files a tax return;
- (3) Clarifying that the application of certain provisions of the measure are contingent upon the date a qualified low-income building is placed in service;
- (4) Applying the Act to taxable years beginning after December 31, 2024;
- (5) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and
- (6) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B.



No. 659, S.D. 1, as amended herein, and recommends that it pass
Third Reading in the form attached hereto as S.B. No. 659, S.D. 2.

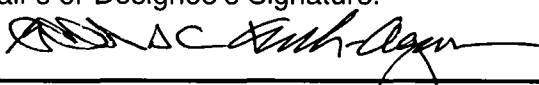
Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>SB 659, SD 1</i>	<i>HOU, WAM</i>	<i>3/4/21</i>		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
WAKAI, Glenn	X			
FEVELLA, Kurt	X			
TOTAL	<i>11</i>			
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