

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Nadine K. Nakamura, Chair;  
The Honorable Troy N. Hashimoto, Vice Chair;  
and Members of the House Committee on Housing

From: Isaac W. Choy, Director  
Department of Taxation

Date: Thursday, February 3, 2022  
Time: 9:30 A.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 2212, Relating to Affordable Housing and Homeownership Incentives**

While the Department of Taxation (Department) appreciates the intent of H.B. 2212, has some concerns, and offers the following comments for your consideration.

H.B. 2212 implements a savings plans to assist first time home buyers with saving for down payment and closing costs, whereby contributions made to the plan by the plan owner is deferred from current Hawaii income tax for a period of up to 10 years. The measure is effective on January 1, 2023.

First, the Department notes that this measure defines "resident of this state" the same as the term is defined in Hawaii Revised Statutes (HRS) section 11-13. This definition is substantially different from how "resident" is defined for Hawaii income tax purposed in HRS section 235-1. This variance will cause substantial confusion to taxpayers over whether they are a resident for income tax purposes. Because this measure proposed to enact a new Hawaii income tax section, the Department suggests amending the definition so that "resident of this state" is defined under HRS section 235-1.

Second, the measure provides that a taxpayer may not be the holder of more than one first-time home buyer savings accounts. The Department suggests adding a provision that would disqualify an individual from all program benefits if the individual has more than one account.

Third, the measure provides that the taxpayer must include in income the account balance amounts if a taxpayer has not used the funds on eligible costs by December 31 of the last year of the 10-year period set forth in the measure. The Department notes that this essentially enables a taxpayer to defer any income earned on the account for up to the 10-year period without any penalty.

Finally, the measure exempts from the penalty for using the funds on ineligible costs where the loss of use or function of any portion of the body permanently incapacitates the taxpayer from regularly performing work at a gainful and suitable occupation. The Department is unable to make such a determination, and instead suggests the exemption from the penalty be determined by reference to the definition of “person totally disabled” set forth in HRS section 235-1. A determination of whether a taxpayer is a “person totally disabled” is made by a medical professional specified in the definition.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
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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 HOUSING  
ON  
HOUSE BILL NO. 2212

**February 3, 2022**  
**9:30 a.m.**  
**Room 423 and Videoconference**

**RELATING TO AFFORDABLE HOUSING AND HOMEOWNERSHIP INCENTIVES**

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2212 implements a pre-tax savings account to assist first time home buyers with saving for a down payment and closing costs.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.

February 3, 2022

**The Honorable Nadine K. Nakamura, Chair**

House Committee on Housing

Via Videoconference

**RE: H.B. 2212, Relating to Affordable Housing and Homeownership  
Incentives**

**HEARING: Thursday, February 3, 2022, at 9:30 a.m.**

Aloha Chair Nakamura, Vice Chair Hashimoto, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 10,800 members. HAR **supports** H.B. 2212, which implements the IRS pre-tax savings plans to assist first time homebuyers with saving for down payment and closing costs.

One of the biggest hurdles for a first-time homeowner is saving for a down payment. To highlight this issue, as of December 2021, the following is the housing data and the down payment at 10% or 20% down:

**Single-Family:**

County:	Median:	10% Down:	20% Down:
<b>Island of Hawai'i</b>	\$534,000	\$53,400	\$106,800
<b>Kaua'i</b>	\$1,625,000	\$162,500	\$325,000
<b>Maui</b>	\$1,075,000	\$107,500	\$215,000
<b>O'ahu</b>	\$1,050,000	\$105,000	\$210,000

**Condominiums:**

County:	Median:	10% Down:	20% Down:
<b>Island of Hawai'i</b>	\$483,544	\$48,354	\$96,709
<b>Kaua'i</b>	\$597,000	\$59,700	\$119,400
<b>Maui</b>	\$700,000	\$70,000	\$140,000
<b>O'ahu</b>	\$485,000	\$48,500	\$97,000

Homeownership is one of the most important ways for families to build wealth and connect more deeply with their communities. As such, HAR supports efforts that help first-time homebuyers achieve their dream of homeownership.

Mahalo for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

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SUBJECT: INCOME, First-Time Homebuyer Savings Account

BILL NUMBER: HB 2212

INTRODUCED BY: MATSUMOTO, BRANCO, ELI, HAR, ICHIYAMA, ILAGAN, JOHANSON, KITAGAWA, LOPRESTI, MCKELVEY, MORIKAWA, NAKAMURA, NAKASHIMA, NISHIMOTO, PERRUSO, TAM, TARNAS, WARD, WILDBERGER, WOODSON

EXECUTIVE SUMMARY: Implementation of pre-tax savings plans to assist first time home buyers with saving for down payment and closing costs. It should be noted that the plan provides state benefits only, as the Internal Revenue Code does not presently allow for tax benefits for such a savings plan.

SYNOPSIS: The bill apparently will set up a mechanism for qualified first-time homebuyers to build up savings on a pre-state tax basis, and then use that money on home buying expenses such as a down payment or closing costs. It appears that \$5,000 for an individual or \$10,000 for a couple, per year, up to \$50,000, can avoid the payment of state tax if it is put into such an account and then used for qualifying expenses. Interest and other earnings in the account are deferred until withdrawn from the account.

EFFECTIVE DATE: January 1, 2023

STAFF COMMENTS: The bill, to move forward, would need to be drafted in proper form. Substantive provisions in the bill should amend the Hawaii Revised Statutes, so they can be found, and not remain uncodified.

It should be emphasized that there is presently no federal program that would permit the deferral of federal income tax for moneys deposited into such an account. Any tax benefits would be state benefits only. There are several references in the bill to federal taxable income, which give the false impression that federal tax will be deferred or forgiven as well.

Digested: 2/1/2022

**HB-2212**

Submitted on: 2/1/2022 10:57:59 AM

Testimony for HSG on 2/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Melchor Rezada	Individual	Support	No

Comments:

Aloha,

Thanks for the Legislatures who created this idea regarding the HB2212( pre tax savings for down payment for eligible Hawaii residents as First Time Homebuyers). If you are a first time homebuyers and planning to buy a home with \$500,000 price, you need a \$100,000 down payment . To come up this amount will be impossible especially if you are just a paycheck to paycheck low income or moderate income earner. Before you can save \$30,000 for down payment, the home median price skyrocketed already to \$1M. That's the housing market reality in Hawaii. The home prices climb faster than you save unless you have a pre- tax savings invested in stock market.

I support the HB2212 that will benefit future First time homebuyers. But I suggest if their is a way to use the pre- tax savings in 401ks ( from the first time homebuyers and their family members)which is ready available NOW for withdrawals with FREE Tax incentives or Tax exemptions for First Time Homebuyers effective this year or the near future. Despite of pandemic crises, 401Ks are good last year. It will be nice if 401k withdrawals with tax incentives can be use for down payment to buy first home.

Melchor(rezadamel@yahoo.com)