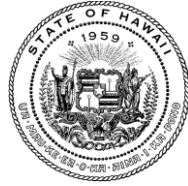


DAVID Y. IGE
GOVERNOR

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 Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director
Department of Taxation

Date: Friday, February 18, 2022
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 3101, S.D. 1, Relating to Tax Exemption

The Department of Taxation (Department) supports S.B. 3101, S.D. 1, an Administration measure, and offers the following analysis for your consideration.

S.B. 3101, S.D. 1, exempts from the general excise and use tax any income earned from homestead development projects for the Department of Hawaiian Home Lands (DHHL), provided that DHHL certifies the project. The measure is effective upon approval.

The Department respectfully requests that the measure be made effective on January 1, 2023 to allow time to make the necessary form, instructions, and computer system changes.

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

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

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

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

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 SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 3101, S.D. 1

February 18, 2022
10:00 a.m.
Room 211 and Videoconference

RELATING TO TAX EXEMPTION

The Department of Budget and Finance (B&F) offers comments on this bill, which authorizes the Department of Hawaiian Home Lands to certify for exemption from general excise taxes gross income arising from their homestead developments.

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:

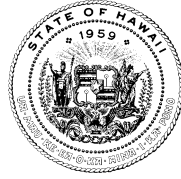
- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

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 the opportunity to provide written comments.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS
DECISION MAKING ON FEBRUARY 18, 2022 AT 10:00AM VIA VIDEOCONFERENCE

SB 3101, SD1, RELATING TO TAX EXEMPTION

February 18, 2022

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) strongly supports this bill that exempts any homestead development for DHHL from general excise taxes. This bill was approved by the Hawaiian Homes Commission and included in the Governor's administrative package by request of our department.

DHHL asks that clarifying amendments suggested by the Department of Budget and Finance be replaced with the original language in the bill as follows:

On page 2, line 3 replace "homestead development" with "project."

On page 2, line 10 delete "on Hawaiian home lands."

These changes would give the broadest flexibility and clarifying amendments should be made throughout that this tax exemption is for housing development for the department of Hawaiian home lands.

DHHL currently has four (4) large-scale development projects underway for consideration by HHFDC for GET exemptions as follows:

<u>Projects Pending GET Exemption</u>	<u>Est. Dev. Costs</u>	<u>Est. GET Savings</u>
1) HHL Rent with Option to Purchase (Laiopua) (163 Units)	\$ 5,000,000 (x 4.25%) =	\$ 212,500
2) Pu'unani Subdivision (160 Lots) (136 turnkey/24 vacant Lots)	\$ 23,350,013 (x 4.0%) =	\$ 934,000
3) Former Voice of America Site (253 Units)	\$ 50,000,000 (x 4.5%) =	\$2,250,000
4) 820 Isenberg Street (Bowl-O-Drome site) (277 Units)	\$ 137,000,000 (x 4.5) =	<u>\$6,165,000</u>
	TOTAL:	\$9,561,500

The GET cost savings from these homestead development projects could be used to develop more homestead lots. DHHL defines homestead lots as residential, agricultural and pastoral 99-year homestead leases. DHHL includes all acquisition, planning, design, post design, and construction of offsite and onsite development costs in its quantification of eligible costs for GET exemption purposes.

Other homestead projects in the pipeline include:

<u>Projects in the Pipeline for development</u>	<u>Est. Dev. Costs</u>	<u>Est.GET Savings</u>
1) Kauluokahai IIC (130 res Lots)	\$20,000,000 (x 4.5%)	\$ 900,000
2) Keokea Waiohuli 2B (76 res lots)	\$18,000,000 (x 4.0%)	\$ 720,000
3) Pulehunui offsite infrastructure (100 ag lots)	\$50,000,000 (x 4.0%)	\$2,000,000
4) Villages of Leialii 1B (250 res lots)	\$130,000,000 (x 4.0%)	\$5,200,000
5) Honokowai Potable Water Development (1,200 mixed homestead lots)	\$30,000,000 (x 4.0%)	\$1,200,000
6) Kahikinui Access Improvements (75 pastoral lots)	\$ 5,000,000 (x 4.0%)	\$ 200,000
7) Naiwa Agricultural Subdivision (58 agricultural lots)	\$30,000,000 (x 4.0%)	\$1,200,000
8) Hanapepe Residential Lots Phase 2 (75 lots)	\$20,000,000 (x 4.5%)	\$ 900,000
9) Villages of Laiopua 4 Hema (130 res Lots)	\$14,000,000 (x 4.25%)	<u>\$ 595,000</u>
Total potential DHHL savings from GET exemption		\$12,915,000

*Department of Hawaiian Home Lands
SB 3101, SD1
WAM, 2-18-2022
Page 3*

DHHL is aware that this bill could impact the State's share of direct federal aid from the American Rescue Plan Act of 2021 and requests that options be explored to allow for the tax exemption while shielding any reduction in federal aid.

Thank you for your consideration of our testimony.

SB-3101-SD-1

Submitted on: 2/11/2022 7:45:52 PM

Testimony for WAM on 2/18/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kenneth R. Conklin, Ph.D.	Testifying for Center for Hawaiian Sovereignty Studies	Oppose	No

Comments:

This bill proposes to exempt from Hawaii's general excise tax any homestead development on DHHL lands, including not only new construction but also rehabilitation or renovation of existing houses or rental apartments.

As the bill points out, "The legislature finds that lands utilized by the department of Hawaiian home lands to provide homesteads for native Hawaiians are offered at affordable rates when compared to similar development available in Hawaii." Actually the land itself is offered for lease rent of one dollar per year for 99 years. The counties further subsidize the residents by providing zero or extremely low property tax while nevertheless giving the same services provided to fully-taxed homes including water, sewage, trash pickup, police protection, etc.

As the Tax Foundation of Hawaii pointed out in its testimony on the original bill heard on February 1, 2022:

If the housing development is on Hawaiian homestead land, the beneficiaries to reside in the developed homes would be receiving several benefits unique to Hawaiian homesteads, as detailed in

<https://dhhl.hawaii.gov/applications/applying-for-hawaiian-home-lands/>

- Annual lease rent of \$1.00 per year;
- 99-year lease;
- Lease term which can be extended for an additional 100 years, allowing passage of the homestead from generation to generation;
- Seven-year exemption from real property tax;
- Complete exemption of tax on land;
- Minimal real property tax after the first seven years (applies only to County of Kauai and City and County of Honolulu, Oahu);
- And other benefits.

And why do the residents receive land and services at far lower expense than their neighbors across the street? It's only because an individual leaseholder in a possibly large family has at least 50% native blood, or perhaps has inherited the lease with only 1/4 native blood, or under a new law enacted last year by the Hawaii legislature, need have as little as 1/32.

Meanwhile the 80% of Hawaii's people lacking native blood must pay the full amount of excise tax not only on housing but also on the bare necessities of life including food, medical care, clothing, etc. And Speaker Saiki proposes to suddenly throw \$600 Million to DHHL while most legislators seem reluctant to support Governor Ige's proposal of a meager \$100 refund of excessive income tax.

Race-based government handouts are both illegal and immoral. Stop it!

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for Homestead Development by DHHL

BILL NUMBER: SB 3101 SD 1

INTRODUCED BY: Senate Committee on Hawaiian Affairs

EXECUTIVE SUMMARY: Exempts any homestead development for the Department of Hawaiian Home Lands from general excise taxes. Lawmakers may wish to add the requirement of a regulatory agreement to ensure that the property developed is used for the purposes intended.

SYNOPSIS: Adds a new section to chapter 237, HRS, that exempts all gross income received by any qualified person or firm for the planning, design, financing, or construction of any housing development for the Department of Hawaiian Home Lands.

Allows DHHL to certify for exemption a newly constructed, or a moderately or substantially rehabilitated, project that is developed: (1) For the department of Hawaiian home lands; (2) Under a government assistance program approved by the department of Hawaiian home lands; (3) Under the sponsorship of a nonprofit organization providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing on Hawaiian home lands; or (4) To provide affordable rental housing on Hawaiian home lands where at least fifty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by the United States Department of Housing and Urban Development.

Defines “moderately rehabilitated” as rehabilitation to upgrade a dwelling unit to a decent, safe, and sanitary condition, or to repair or replace major building systems or components in danger of failure.

Defines “substantially rehabilitated” as: (1) the improvement of a property to a decent, safe, and sanitary condition that requires more than routine or minor repairs or improvements. It may include but is not limited to the gutting and extensive reconstruction of a dwelling unit, or cosmetic improvements coupled with the curing of a substantial accumulation of deferred maintenance; and (2) includes renovation, alteration, or remodeling to convert or adapt structurally sound property to the design and condition required for a specific use, such as conversion of a hotel to housing for elders.

Allows DHHL to establish a user fee for approvals and certification.

Adds a new section to chapter 238, HRS, to add a corresponding exemption to the Use Tax Law.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This bill is an Administration measure sponsored by the Department of Hawaiian Home Lands and identified as HHL-03 (22).

It seems that the proposed exemption has many similarities to the affordable housing exemption now in sections 46-15.1 and 201H-36, HRS. The proposed exemption appears to be looser, however:

- The existing low-income housing exemption requires a regulatory agreement of at least five years for moderate rehabilitation projects, ten years for substantial rehabilitation projects, and thirty years for new projects. No regulatory agreement is required by this bill.

Because the housing development is on Hawaiian homestead land, the beneficiaries to reside in the developed homes would be receiving several benefits unique to Hawaiian homesteads, as detailed in <https://dttl.hawaii.gov/applications/applying-for-hawaiian-home-lands/>:

- Annual lease rent of \$1.00 per year;
- 99-year lease;
- Lease term which can be extended for an additional 100 years, allowing passage of the homestead from generation to generation;
- Seven-year exemption from real property tax;
- Complete exemption of tax on land;
- Minimal real property tax after the first seven years (applies only to County of Kauai and City and County of Honolulu, Oahu);
- And other benefits.

Digested: 2/14/2022

Sandra-Ann Y.H. Wong

Attorney at Law, a Law Corporation

1050 Bishop Street, #514

Honolulu, Hawaii 96813

**TESTIMONY IN SUPPORT OF SB3101, SD1
SENATE COMMITTEE ON WAYS AND MEANS
FRIDAY, FEBRUARY 18, 2022 at 10 a.m.**

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

On behalf of Dowling Company, Inc., thank you for the opportunity to provide written testimony in support of SB3101, SD1.

A significant percentage of Department of Home Lands' ("DHHL's") beneficiaries struggle to qualify for mortgages. The Federal Reserve has announced its intent to increase interest rates, which will also result in increased mortgage rates. Hawaii's General Excise Tax ("GET") increases the cost of housing for all segments of the state's population, including DHHL's beneficiaries. Exempting homestead development on DHHLs from GET will help more native Hawaiians achieve homeownership.

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

February 18, 2022

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Testimony in Support of SB-3101

Exempts any homestead development for the Department of Hawaiian Home Lands from general excise taxes.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee

I'm Homelani Schaedel, a lessee residing in Malu'ohai, a homestead leader in Kapolei, and an advocate for the Hawaiian Home Lands Trust.

Below is a comparison of the State's two (2) primary agencies to provide housing:

State Agency	Department of Hawaiian Home Lands (DHHL)	Hawaii Housing Finance & Development Corporation
Mission	The Department of Hawaiian Home Land's mission is to manage the Hawaiian Home Lands trust effectively and to develop and deliver lands to native Hawaiians.	The mission of the Hawaii Housing Finance and Development Corporation is to increase and preserve the supply of workforce and affordable housing statewide by providing leadership, tools, and resources to facilitate housing development.
Development Resources	Financing, expedited land use approvals under Chapter 201H, Hawaii Revised Statutes, and real property.	Financing, expedited land use approvals under Chapter 201H, Hawaii Revised Statutes, exemptions from general excise taxes , and real property.
2021 Legislative Funding	CIP Funds \$78 million (Note: The most legislative funding for Capital Improvement in the agency's history) TOTAL: \$78 million	CIP Funds \$40 million Dwelling Unit Revolving Fund (DURF) \$20 million Rental Housing Revolving Fund (RHRF) \$25 million TOTAL: \$85 million

§15-306-1 Purpose: ...**The legislative intent of the general excise tax exemption is to achieve cost savings to assure economic feasibility which will encourage and enable the production of as many lower cost housing units as possible.**

DHHL and beneficiaries have come before, and I will ask the question, what is the distinction between these two (2) agencies that allows HHFDC to have the exemption, and what disqualifies DHHL from receiving the same **exemption without having to ask for it each time they are developing a project?**

This exemption would provide DHHL a cost savings of an estimated \$22,500,000 with projects in their current pipeline.

You must ask yourselves the same questions. I ask and, trust you will move this bill forward to bring parity in support of DHHL and our beneficiaries.

Mahalo for your time and consideration

LATE

SB-3101-SD-1

Submitted on: 2/18/2022 6:25:56 AM

Testimony for WAM on 2/18/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Johnnie-Mae L. Perry	Individual	Support	No

Comments:

As a beneficiary I, Johnnie-Mae L. Perry, strongly support SB 3101 SD1 Relating To Tax Exemption, Dept of Hawaiian Homes Lands. This will help the DHHL build more homes on a timing and costly manner.