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 Maile S.L. Shimabukuro, Chair;
The Honorable Jarrett Keohokalohe, Vice Chair;
and Members of the Senate Committee on Hawaiian Affairs

From: Isaac W. Choy, Director
Department of Taxation

Date: Tuesday, February 1, 2022
Time: 1:01 P.M.
Place: Via Video Conference, State Capitol

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

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

S.B. 3101 exempts from the general excise tax any income earned from homestead development projects for the Department of Hawaiian Home Lands (DHHL), provided that DHHL certifies the project as exempt from the general excise tax. 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

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

STATE OF HAWAI'I
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAI'I 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 SENATE COMMITTEE ON HAWAIIAN AFFAIRS
ON
SENATE BILL NO. 3101

February 1, 2022
1:01 p.m.
Via 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 (DHHL) to certify for exemption from general excise taxes gross income arising from their homestead developments.

B&F suggests adding the following clarifying amendments to this bill. On page 1, line 16, to page 3, line 15, the new subsection (b) should be amended to read as follows:

"(b) The exemption eligibility shall be approved by the department of Hawaiian home lands and shall apply to the gross income derived by any qualified person or firm from a newly constructed or a moderately or substantially rehabilitated homestead development 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."

Additionally, any general excise tax exemption requires a commensurate use tax exemption in Section 238-3, HRS. Rulemaking authority for the joint promulgation of administrative rules by DHHL and the Department of Taxation to implement the exemption should also be added to this bill.

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 Hawaiʻi complies with this ARP restriction.

Thank you for the opportunity to provide testimony.

SUBJECT: Department of Hawaiian Home Lands; Homestead Development; General Excise Tax Exemption

BILL NUMBER: SB 3101, HB 2133

INTRODUCED BY: SB by KOUCHI by request; HB by SAIKI by request

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; or (4) To provide affordable rental housing 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.

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.

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.

Lawmakers may wish to add the requirement of a regulatory agreement to ensure that the property developed is used for the purposes intended.

Digested: 1/31/2022

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR
CHAIRMAN
HAWAIIAN HOMES COMMISSION

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 HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 1, 2022 AT 1:01PM VIA VIDEO CONFERENCE

SB 3101 RELATING TO TAX EXEMPTION

February 1, 2022

Aloha Chair Shimabukuro, Vice Chair Keohokalole, 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 currently has four (4) large-scale development projects underway for consideration by HHFDC for GET exemptions as follows:

Projects Pending GET Exemption	Est. Dev. Costs	Est. GET Savings
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) =	$6,165,000
	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:

Projects in the Pipeline for development	Est. Dev. Costs	Est.GET Savings
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%)	$ 595,000
Total potential DHHL savings from GET exemption		$12,915,000

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
Submitted on: 1/28/2022 8:11:56 AM
Testimony for HWN on 2/1/2022 1:01:00 PM

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.

And why do the residents receive land and services at far lower expense that 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 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!

Sandra-Ann Y.H. Wong

Attorney at Law, a Law Corporation

1050 Bishop Street, #514
Honolulu, Hawaii 96813

TESTIMONY IN SUPPORT OF SB3101
SENATE COMMITTEE ON HAWAIIAN AFFAIRS
TUESDAY, FEBRUARY 1, 2022 at 1:01p.m.

Aloha Chair Shimabukuro, Vice Chair Keohokalole, and Members of the Committee:

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

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.

Telephone: (808) 537-2598
e-mail: sawonglaw@hawaii.rr.com

February 1, 2022

Senate Committee On Hawaiian Affairs
Senator Maile S.L. Shimabukuro, Chair
Senator Jarrett Keohokolole, 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 Shimabukuro, Vice Chair Keohokolole, and members of the Committee,

I'm Homelani Schaedel, a beneficiary residing in Maluʻōhai, 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. This chapter implements sections 201H-36 and 237-29, HRS, regarding general excise tax exemptions for qualified persons and firms involved in providing low and moderate income housing. 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 **exemptions from general excise taxes?**

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.

Me ka mahalo nui!