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STATE OF HAWAII
DEPARTMENT OF TAXATION

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**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 351, H.D.1, Relating to Tax Credits

BEFORE THE:

House Committee on Finance

DATE: Wednesday, March 1, 2023

TIME: 2:30 p.m.

LOCATION: State Capitol, Room 308

Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 351, H.D.1, for your consideration.

H.B. 351, H.D.1, creates a nonrefundable income tax credit for "qualified taxpayers" who are owners of a condominium unit whose association is increasing the maintenance fees due to a county's ordinance that requires installation of an "automatic fire sprinkler system" or "alternative fire prevention and fire safety system." The credit is equal to the amount by which the maintenance fee is increased, or the amount actually paid by the taxpayer, not to exceed \$1,000. The aggregate amount of the tax credits claimed shall not exceed \$5,000,000 per taxable year.

The bill has a defective effective date of June 30, 3000, and applies to taxable years beginning after December 31, 2022.

The Department appreciates that the Committee on Consumer Protection and Commerce incorporated many of the Department's suggested amendments. However, the Department notes that aggregate caps are difficult for the Department to administer and often result in uncertainty for taxpayers. If the aggregate cap is maintained, the Department respectfully requests that the credits be certified by an appropriate agency.

Further, the Department notes that the cost of the automatic fire sprinkler system or alternative fire prevention system may be imposed by an association through an

increase in the maintenance fee or by a special assessment. If the intent of the bill is to provide a credit for both scenarios, the Department recommends amending the bill to include special assessments.

Furthermore, the Department notes that it will require resources and time to implement the new credit. Accordingly, the Department requests that if the effective date of the measure is updated, it be amended to apply to taxable years beginning after December 31, 2023.

The Department estimates a revenue loss to the general fund as follows (\$ millions):

FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
-5.0	-5.0	-5.0	-5.0	-5.0	-5.0

Thank you for the opportunity to provide comments on this measure.

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Tax Credit for Condo Maintenance Fee Increase for Fire Prevention and Fire Safety System

BILL NUMBER: HB 351 HD 1

INTRODUCED BY: House Committee on Consumer Protection & Commerce

EXECUTIVE SUMMARY: Establishes a nonrefundable income tax credit for owners of condominium units whose association is increasing maintenance fees to comply with a county ordinance requiring an automatic fire sprinkler system or alternative fire prevention and fire safety system.

SYNOPSIS: Adds a new section to chapter 235, HRS, to provide for a nonrefundable tax credit to (1) a qualified taxpayer, (2) who owns a unit for which the association is increasing the maintenance fee, (3) to comply with a county ordinance requiring an automatic fire sprinkler system or alternative fire prevention and safety system.

The amount of the tax credit is equal to (i) the amount by which the maintenance fees increased or (ii) the amount actually paid by the taxpayer, but (iii) not to exceed \$1,000; further, (iv) no more than one nonrefundable tax credit may be claimed per unit, and (v) the amount of tax credits awarded is capped at \$5 million statewide.

Defines a qualified taxpayer as one subject to Hawaii net income tax and is: (1) Filing individually with a gross income equal to or less than \$100,000; (2) Married filing separately with a gross income equal to or less than \$150,000; or (3) Married filing jointly with a combined income equal to or less than \$200,000.

Defines “association,” “condominium,” and “unit” by cross reference to section 514B-3, HRS.

Defines “alternative fire prevention and fire safety system” as a building's safety features and fire protection systems in compliance with the applicable county fire code and county building code that provide a minimum level of fire and life safety to occupants and fire fighters, as approved by the county in which the condominium is located.

Defines “automatic fire sprinkler system” as automatic sprinklers installed and maintained in full operating condition in accordance with the applicable county fire code and as approved by the county in which the condominium is located.

EFFECTIVE DATE: June 30, 3000.

STAFF COMMENTS: It appears that this measure is proposed to encourage taxpayers in condominium associations to comply with county ordinances requiring installation of fire prevention systems.

Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as kind about the expenditure of these funds when students are roasting in our schools, or when there isn't enough money for social service programs?

The tax credit contemplated here could well be very unfair in application. Because the credit is nonrefundable, two taxpayers would get very different benefits if one has little taxable income because of business losses and the other is swimming in income. Because the credit is subject to a statewide limit, two taxpayers might get different benefits even with the same income and added costs because one files a few days earlier than the other.

We also wonder why the bill drafters want the individuals to apply for relief rather than the association. Presumably, the latter would have the documentation regarding the need for the fire prevention system, the cost of it, and the amount passed through to homeowners. Individuals probably would have none of that documentation, and probably would go through great distress if the Department of Taxation decided to audit the benefit.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount compared to the loss in revenue from the credit, especially since the credit proposed is a very modest amount. A direct appropriation to subsidize those costs would be more accountable and transparent.

Digested: 2/28/2023

TO: Honorable Representative Kyle T. Yamashita, Chair
Honorable Representative Lisa Kitagawa, Vice-Chair
House Committee on Finance

FROM: Ted Sakai

SUBJECT: House Bill 351, HD1 Relating to Tax Credits
Hearing: Wednesday, March 1, 2023: 2:300 PM
State Capitol, Conference Room 308

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

I am a resident of 999 Wilder Avenue, a high-rise condominium in Honolulu. I strongly support HB 351, HD1, which proposes a tax credit for qualified taxpayers who own units in condominiums that are forced to increase maintenance fees to comply with a county ordinance requiring an automatic fire sprinkler system or alternative fire prevention and fire safety systems.

Following the Marco Polo fire in July 2017, the City and County of Honolulu enacted an ordinance requiring that certain high-rise condominiums install automatic fire sprinkler systems or, in the alternative, other measures to improve fire safety for residents guest and firefighters. We recognize the importance of sprinklers and other fire safety measures. Just recently, we learned of a fire in a Honolulu high rise that claimed the life of a resident. The building was not equipped with an automatic fire sprinkler system.

Fire safety in high rise condominiums have impacts for the community, and not just for the owner in whose unit the fire originates. In high rise condominiums, a fire in one unit will spread rapidly and cause serious damage to other units. Moreover, fire fighters have difficulty accessing fires above the tenth floor. This enhances the risk to firefighters, and modern fires bur hotter and spread more rapidly.

999 Wilder Avenue has worked diligently over the years to comply with the ordinance. We are finding that compliance is difficult because of the expense. In 2019, we estimated that the installation of sprinklers will be very expensive. However, the cost of alternative

The Honorable Kyle T. Yamashita, Chair
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systems will be even more and would not afford us the same protections. The recent City ordinances require that we do one or the other. We are developing plans to install sprinklers, but its high cost will require significant increases in our maintenance fees. In addition, we must also plan for other major maintenance projects, such as sewer line replacement (our building is over fifty years old) and spalling. Many of our residents are retired and on fixed incomes. They cannot afford continuous increase of the magnitude that will be required for fire sprinklers.

HB 351, HD1 will prove welcome relief for many condominium owners and residents in Honolulu. We ask for your favorable consideration.

HB-351-HD-1

Submitted on: 2/27/2023 9:01:14 PM

Testimony for FIN on 3/1/2023 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

I strongly support HB351 HD1. We cannot allow any more preventable tragedies to occur in high-rise condos. They all need to have sprinklers to protect the lives of residents, and the state should help offset the significant cost of the upgrades so that condo residents are able to afford it. Mahalo.