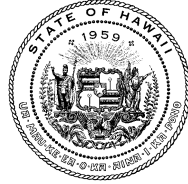


JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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GARY S. SUGANUMA
DIRECTOR OF TAXATION

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

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

BEFORE THE:

House Committee on Consumer Protection and Commerce

DATE: Friday, February 2, 2023
TIME: 2:00 p.m.
LOCATION: State Capitol, Room 329

Chair Nakashima, Vice-Chair Sayama, and Members of the Committee:

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

H.B. 351 creates a new nonrefundable income tax credit of \$1,000 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 or alternative fire prevention and fire safety system. "Qualified taxpayer" is defined within the measure. The aggregate amount of the tax credits claimed shall not exceed \$5,000,000 per taxable year. The bill becomes effective upon approval and applies to taxable years beginning after December 31, 2022.

First, 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 requests that the credits be certified by another agency.

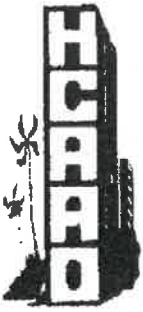
Second, the Department suggests amending the bill to clarify: (1) that only one tax credit may be claimed per unit; (2) that the credit may be claimed in the taxable year in which the increase in fee was imposed and paid; and (3) that the amount of the credit claimed shall not exceed the amount by which the maintenance fee was increased or the amount actually paid by the taxpayer.

Third, the Department notes that the measure does not define “automatic fire sprinkler” or “alternative fire prevention and fire safety system”. The Department recommends defining these terms for clarification to minimize taxpayer confusion, prevent improper claims, and abuse of the credit.

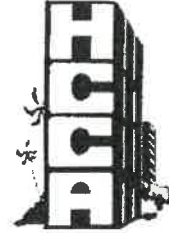
Fourth, the Department notes that the cost of the fire sprinkler system or alternative fire prevention system may be imposed by an association through an increase in the maintenance fee or by a special assessment. If the intent of the bill is to provide a credit for both scenarios, the Department recommends amending the bill to include special assessments.

Finally, the Department notes that due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session in time for tax year 2023. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

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



**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



January 31, 2023

Rep. Mark M. Nakashima, Chair
Rep. Jackson Sayama, Vice-Chair
House Committee on Consumer Protection and Commerce

Re: Testimony in re
HB 351 RELATING TO TAX CREDITS
Hearing: Wednesday, February 1, 2023, 2 p.m., Conf. Rm. #329

Chair Nakashima and Vice-Chair Sayama and Members of the Committee:

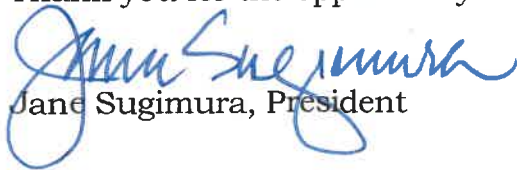
I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA).

HCCA supports the intent and purpose of this bill because the County mandate requiring fire sprinklers to be installed in high-rise residential buildings has created concern and hardship for unit owners who are currently facing and addressing financial challenges in maintaining their aging buildings. I have the following questions and concerns regarding this bill:

- Is the tax credit limited to a one-time credit of \$1,000, or can the unit owner take an annual deduction of \$1,000. In 2021, it was estimated for my 23-story condo with 300 units that the cost of sprinklers would be \$3.5 -4.0 million – that’s about \$13,000/unit assessment for sprinklers, and a \$1,000 tax credit/unit is not much help to unit owners facing a \$13,000 assessment unless they can take annual tax credits of \$1,000 for 13 years. This language needs clarification.
- The “**aggregate amount of the tax credits claimed**” cannot exceed \$5,000,000 for each taxable year. If an owner is allowed a maximum tax credit of \$1,000, that means that only 5,000 owners can take advantage of the credit each year. There are over 100,000 unit owners who live in buildings in Oahu that do not have fire sprinkler systems. Does that mean that the first 5,000 unit owners can take the credit and rest have to wait until the next year to take the credit. How will that work?
- At line 7 on page 1 of the bill there needs to be addition language such as: “increasing the maintenance fee **or implementing a special assessment** . . . “ There is a difference between “maintenance fees” and “assessments” so both should be included in the bill.

- Also, if the AOAO collects the amount [from owners] to install sprinklers via special assessments, those assessments will likely exceed \$1,000/year because the assessments will be needed to pay the contractor who is doing the installation of the fire sprinkler system and will expect payment upon completion of the job, which will be less than one year. In that case, the \$1,000 tax credit will not be much relief for the individual unit owner, who may be assessed \$2000-\$3,000/year for 3-4 years.

Thank you for the opportunity to testify on this matter.



Jane Sugimura, President

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: Fire Prevention and Fire Safety System; Condominium Association; Maintenance Fee Increase; Tax Credit

BILL NUMBER: HB 351, SB 1234

INTRODUCED BY: HB by ICHIYAMA; SB by WAKAI

EXECUTIVE SUMMARY: Establishes a tax credit for certain owners of a condominium 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 of \$1,000 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 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.

EFFECTIVE DATE: Upon approvable, applicable to taxable years beginning after December 31, 2022.

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 a flat amount, two taxpayers whose maintenance fees have gone up by vastly different amounts

will get the same credit. 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: 1/31/2023

HB-351

Submitted on: 1/30/2023 8:10:56 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Palehua Townhouse Association	Support	Written Testimony Only

Comments:

We strongly support HB351.

Mike Golojuch, Sr., President, Board of Directors, Palehua Townhouse Association

February 2, 2023

Testimony Re: HB 351, Relating to Tax Credits

My name is Carl Takamura and I am the President of the Parkland Gardens AOAO Board of Directors. Parkland Gardens is a 96 -unit condominium located in Moiliili, and our board is in strong support of HB 351.

In accordance with city ordinance 18-14 which was established following the tragic Marco Polo fire, our board contracted to have a Life Safety Evaluation (LSE) conducted and submitted to the city. Our building, along with about 255 high rise buildings, did not receive an acceptable score, and in fact, as of August 2022, only 20 of the estimated 275 impacted high -rise buildings had received an acceptable score.

Later, when developing our FY2023 annual budget, we were shocked to learn that our insurance premium had increased by 46%, and that we were fortunate that we were even able to get insurance. The insurance industry is very concerned about the growing number of high rise fires in Hawaii and it did not matter to them if a building had received an acceptable LSE score or not. We were warned to expect similar premium increases in the future if our building continued not to have a fire sprinkler system.

Our board is in the process of gathering information regarding the cost and impact of retrofitting a sprinkler system and intent to have our owners make a decision about this project sometime this year. We do know that the expense for this project, which will probably be over \$3 million, will be a heavy burden on our owners (a number of whom are kupuna).

The tax credit proposed in this bill would help to alleviate the financial burden that our owners would have to bear in order to meet the fire sprinkler system requirement. It would also help Parkland Gardens to not only meet our responsibilities under the city's fire safety ordinance, but to also better ensure the health and safety of our residents.

We urge your support for this important measure.

Carl Takamura

President

HB-351

Submitted on: 1/31/2023 5:55:25 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
kenneth Fehling	Individual	Support	Written Testimony Only

Comments:

I support the bill to provide tax credit to those condominium owners that have increased maintenance complying with a county ordinance to provide Fire Sprinklers or alternative fire prevention and fire safety system in their buildings. The cost of fire sprinklers is very expensive and funding these projects will increase the condominium maintenance fees. Lower income residents and those living on fixed income, such as seniors, shouldn't be priced out of their living quarters due to a requirement to make their condos safer.

HB-351

Submitted on: 1/31/2023 9:27:51 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

Please support HB351.

HB-351

Submitted on: 2/1/2023 11:43:26 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
R Laree McGuire	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support with an amendment that would clarify whether this will be a one-time tax credit or will this be permitted to owners on an annual basis? I suggest establishing a committee to study this problem for a year to determine all issues that need to be addressed to resolve the problem of mandatory sprinklers whether it's permitting tax credits or modifying the reserve laws, among other issues. I say "mandatory sprinklers" because insurance companies are in effect mandating the installation of sprinklers in order to keep insurance rates at a reasonable level.

Mahalo for your consideration.

HB-351

Submitted on: 1/31/2023 10:53:43 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Individual	Comments	Written Testimony Only

Comments:

I have worked in the association industry for 31 years. I hold a Reserve Specialist designation and was a recent member of the CAI National Task Force for Reserve Study Public Policy. It's hard to be against tax breaks, but I do not think this legislation assists in funding sprinklers. Sprinklers not only require retrofits to the individual units but extensive retrofits in the common elements to include a separate room for the water pumps, minimum 10' x 10'. The average cost for a mid-size 100 units association is approximately \$4 million that the association must pay at installation. Larger associations will have a smaller per unit cost but the total cost is still substantial. The Association will be the entity to perform and pay for the retrofit and assess the owners accordingly. If the board chooses a loan instead of a lump sum assessment, all owners, both resident and nonresident owners, will pay their share of the loan for its term, normally up to 15-years. I am not convinced the proposed tax credits will really help all owners to pay for the likely increased maintenance fees.

HB-351

Submitted on: 2/1/2023 8:12:39 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ann Shinsato	Individual	Support	Written Testimony Only

Comments:

Capital improvement projects (including pipe retrofit projects, fire safety measures) for older high rise buildings are pushing maintenance fees and special assessments higher and higher every year, and paying is a hardship for those on fixed incomes. I support this bill to help condo owners stay in their units.