

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Housing
Tuesday, February 14, 2023
1:01 p.m.
Conference Room 225**

**On the following measure:
S.B. 1462, RELATING TO LIMITED-PROFIT HOUSING ASSOCIATIONS**

Chair Chang and Members of the Committees:

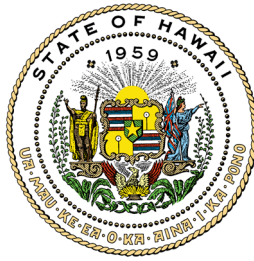
My name is Iris Ikeda and I am the Commissioner of Financial Institutions, Department of Commerce and Consumer Affairs ("Department"), Division of Financial Institutions (DFI). The Department offers comments on this bill.

The purpose of this bill is to establish an organizational and regulatory framework for limited-profit housing associations.

The Department fully supports the intent of the bill to encourage financing of affordable housing projects for Hawaii citizens. The Department submits comments as it relates to the membership of the limited-profit housing council (Council). The Department notes that if the commissioner is a member of the Council, it might create a conflict of interest or the appearance of a conflict of interest between the commissioner and the banks who may be funding any of these housing projects. In the affordable housing area, banks must seek approval from the commissioner to invest funds accordance with Section 412:5-305(h), HRS.

Regarding Part III, Section 7 of the proposal, the Department points out that DFI does not have staffing resources to conduct the activities of the working group without compromising consumer protection activities it currently provides for Hawaii's citizens. DFI does conduct studies and research projects when it has staff available to perform the research.

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



SENATE COMMITTEE ON HOUSING
The Honorable Stanley Chang, Chair
The Honorable Dru Mamo Kanuha, Vice Chair

S.B. NO. 1462, RELATING TO LIMITED-PROFIT HOUSING ASSOCIATIONS

Hearing: Tuesday, February 14, 2023, 1:01 p.m.

The Office of the Auditor takes no position on S.B. No. 1462 and offers the following comments on Section 1 of the bill.

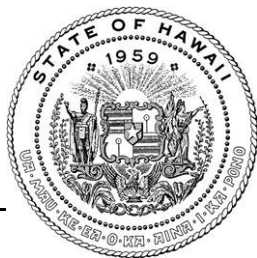
The bill establishes a limited-profit housing council within the Department of Business, Economic Development and Tourism and the Limited-Profit Housing Associations chapter. The bill additionally creates a tax exemption for documents to and by a limited-profit housing association; establishes a working group to create proposed guidelines for a limited-profit housing association; and requires the working group to study and recommend recordkeeping and auditing standards that define, report, and assess housing development performance.

The bill specifically requires the Auditor or the Auditor's designee to serve as chair of the limited-profit housing council, a position which would oversee and administer the establishment and governance of limited-profit housing associations in Hawai'i.

Section 23-4, Hawai'i Revised Statutes, states the Office of the Auditor's duty is to conduct audits of state departments, offices, and agencies of the State and its political subdivisions. Our work primarily is performance audits, meaning we evaluate a department or program's operations against appropriate criteria, such as relevant statutes, administrative rules, policies, procedures, and best practices, to assist the Legislature and the departments with improving program performance, reducing costs, and facilitating greater efficiency in state government. As a legislative service agency, the Office of the Auditor's participation on a council administered under the executive branch would be inappropriate and, furthermore, would impede the Office's ability to conduct independent audits of both the limited-profit housing council and the association established in this chapter. The Office of the Auditor is also statutorily required to conduct reviews of certain tax exemptions, exclusions, and credits. The Auditor's participation on the council would also impede the Office of the Auditor's ability to conduct a review of the exemption proposed in the bill.

We strongly recommend an entity other than the Auditor be appointed to serve on the limited-profit housing council.

Thank you for considering our testimony related to S.B. No. 1462.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKĀ'I

JOSH GREEN, M.D.
GOVERNOR

CHRIS J. SADAYASU
DIRECTOR

DANE K. WICKER
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: dbedt.hawaii.gov

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
CHRIS J. SADAYASU
Director

Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON HOUSING

Tuesday, February 14, 2023
1:01 PM
State Capitol, Conference Room 225

In consideration of
SB1462
RELATING TO LIMITED-PROFIT HOUSING ASSOCIATIONS.

Chair Chang, Vice Chair Kanuha, and members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) offers **comments** on SB1462, which establishes an organizational and regulatory framework for limited-profit housing associations.

The limited profit-housing council would oversee and administer the establishment and governance of limited-profit housing associations in the State. As the creation of long-term affordable housing is one of the Department's key objectives, we will collaborate with the Committee and provide administrative support as the Legislature sees fit, should it be determined that the limited profit-housing council will be established within DBEDT.

Thank you for the opportunity to comment on this measure.

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
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1462, Relating to Limited-Profit Housing Associations

BEFORE THE:

Senate Committee on Housing

DATE: Tuesday, February 14, 2023

TIME: 1:01 p.m.

LOCATION: State Capitol, Room 225

Chair Chang, Vice-Chair Kanuha, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 1462 for your consideration.

S.B. 1462 seeks to establish an organizational and regulatory framework for limited-profit housing associations to develop long-term affordable housing in Hawaii. This bill shall take effect upon approval, with Part II of the bill effective on January 1, 2024.

Part I of the bill adds a new section to chapter 201, Hawaii Revised Statutes (HRS), to establish a "Limited-Profit Housing Council" ("Council") within the Department of Business, Economic Development and Tourism (DBEDT) to oversee and administer the establishment and governance of limited-profit housing associations in Hawaii. The bill establishes that DBEDT is to provide administrative support to the Council, and is provided an exempt administrator position that is responsible for the day to day operations of the council. The Council is chaired by the State Auditor or the auditor's designee, and includes the director of DBEDT; the attorney general; the commissioner of the financial institutions; the director of taxation; the chairs of the standing committees with jurisdiction over housing of the senate and the house of representative; a representative from each of the four counties; or their designees.

Part II of the bill creates a new HRS chapter to be entitled "Limited-Profit Housing Associations" (LPHA) which establishes the LPHA and authorizes a designation and

code of conduct for an association to offer entrepreneurs and investors a sustainable option to develop long-term affordable housing in Hawaii. This section further establishes the responsibilities of the LPHA as relates to assets management, affordable housing price standards, and asset management responsibilities.

Section 3 of the bill creates a new section in chapter 46, HRS, to establish a “limited-profit housing supervisory board” within each county to provide oversight of each LPHA in their respective counties.

Section 4 of the bill creates a new section in chapter 235, HRS, to exclude from the income tax, all ordinary income earned by LPHA. However, any income that is not used by the LPHA within five years for the primary business activities of the LPHA will then be subject to the income tax.

Section 5 of the bill amends section 23-94(c), HRS, to add the new section in chapter 235, HRS, to the list of credits and exclusions to be reviewed by the Legislative Auditor in 2027 and every fifth year thereafter.

Section 6 of the bill provides an exemption from the conveyance tax, for any transfers of interest in real property to or from an LPHA.

Part III of the bill establishes two working groups. The first group, chaired by the commissioner of financial institutions, is to examine the feasibility and implementation of competitive financing incentives as well as provide guidelines to determine the rental prices for the affordable housing units and an annual permissible interest rate for shareholder equity.

The second group, chaired by the director of taxation, shall study and recommend recordkeeping and auditing standards to define, report and assess the overall housing development performance of the LPHA to ensure profitability, expediency in managing the affordable housing units, and compliance with the new chapter that creates LPHAs.

Both working groups are to provide a report of their findings, recommendations and any proposed legislation to the Council for public comment. The Council shall thereafter submit a report to the legislature no later than 20 days prior to the convening of the regular session of 2024. Both working groups will be dissolved on December 31, 2023.

The Department will be able to implement the tax provisions in Part II of the bill by the current effective date and participate in the working group created by section 8 of the bill.

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

SB-1462

Submitted on: 2/12/2023 7:29:26 PM

Testimony for HOU on 2/14/2023 1:01:00 PM

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

Comments:

Please support SB1462.