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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 138, Relating to Taxation

BEFORE THE:

Senate Committee on Public Safety and Military Affairs

DATE: Friday, January 24, 2025

TIME: 3:00 p.m.

LOCATION: State Capitol, Room 225

Chair Elefante, Vice-Chair Wakai, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 138 for your consideration.

S.B. 138 amends chapter 235, Hawaii Revised Statutes, by adding a new section establishing a nonrefundable income tax credit for installation expenses of wind resistant (hurricane resistant) safe rooms.

The credit must be claimed against net income tax liability, on or before the end of the twelfth month following the close of the taxable year. If the credit exceeds the taxpayer's income tax liability, the excess may be carried forward until exhausted. The credit is subject to an unspecified percent of the taxpayer's qualified expenses, subject to an unspecified maximum amount per taxpayer. An unspecified annual aggregate cap applies, and a taxpayer who cannot claim the credit in a taxable year due to the cap limitation is eligible to claim the credit in the subsequent taxable year.

S.B. 138 defines "qualified expenses" as direct costs for the design, materials, installation, and construction of one or more safe rooms on the taxpayer's property, defines a "safe room," and refers to Federal Emergency Management Agency

publications for safe room wind pressure resistance standards. The Director of Taxation is authorized to prepare necessary forms, set requirements for supporting documentation and architect or structural engineer certification, and confirm compliance with the credit requirements.

The bill is effective upon approval for taxable years beginning after December 31, 2024.

First, the Department notes that it is unable to administer aggregate caps. If the aggregate cap is maintained, the Department requests that a third party be responsible for certifying the credit and administering the aggregate cap.

Second, the Department recommends the following amendment.

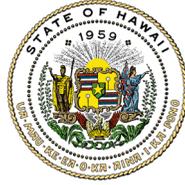
Section 235- (h) be added as follows:

(h) No other tax credit or deduction shall be claimed under this chapter for qualified expenses for the taxable year.

Finally, if this measure passes the Department requests it apply to taxable years beginning after December 31, 2025, to allow sufficient time to make necessary form, instruction, and computer system changes.

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

JOSH GREEN, M.D.
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KA 'AKUKANA KENELALA

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KA MOKU'ĀINA O HAWAI'I
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STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 138,
RELATING TO TAXATION

BEFORE THE SENATE COMMITTEE ON
PUBLIC SAFETY AND MILITARY AFFAIRS

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

JANUARY 23, 2025

Aloha Chair Elefante, Vice-Chair Wakai, and Members of the Committee:

Thank you for the opportunity to submit testimony to **COMMENT ON** Senate Bill 138.

While we support efforts to encourage residents of the state of Hawai'i to protect themselves and their property from the effects of natural disasters, we believe this bill should be expanded to include not just safe rooms, but other mitigation items.

The costs to construct safe rooms in compliance with Federal Emergency Management Agency Publication 320 and Publication 361 are prohibitive for many Hawai'i residents. FEMA Publication 320 estimates cost ranges in 2021 of \$12,700 to \$34,500, depending on room size, for construction of a safe room during new home construction. It is more costly for safe rooms to be installed in existing homes and could take a prolonged amount of time to install FEMA-compliant safe rooms. These estimates also do not account for the higher cost of materials in Hawai'i.

Some examples of mitigation items for homeowners are available in *Homeowner's Handbook to Prepare for Natural Hazards – Fourth Edition* by Dennis J. Hwang and Darren K. Okimoto, published in 2019 by the University of Hawai'i Sea Grant College Program. Some examples of these items are hurricane clips (\$2,000 cost estimate in

2019 for a small, single-wall house), storm panels (\$150 per 3-foot by 4-foot window) and plywood protection (\$30-\$35 per window).

To encourage the average homeowner to protect themselves and their property from the effects of wind pressures and impact from windborne debris, we recommend that this bill be amended to include more affordable effective measures.

Thank you for the opportunity to provide testimony on Senate Bill 138.

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TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX, Credit for Construction of Hurricane-Safe Room

BILL NUMBER: SB 138

INTRODUCED BY: KEOHOKALOLE, AQUINO

EXECUTIVE SUMMARY: Establishes a nonrefundable income tax credit for taxpayers that incur costs related to the design, materials, installation, and construction of hurricane-resistant safe rooms.

SYNOPSIS: Adds a new section to chapter 235, HRS, to create a new nonrefundable tax credit for the installation of a safe room. The safe room installation income tax credit shall be equal to ____ % of the taxpayer's qualified expenses, up to a maximum of \$_____.

The total amount of tax credits allowed under this section shall not exceed \$_____ for all taxpayers in any taxable year; provided that any taxpayer who is ineligible to claim the credit in a taxable year due to the cap having been exceeded for that taxable year shall be eligible to claim the credit in the subsequent taxable year.

The credit is not refundable but may be carried forward until exhausted.

For a partnership, S corporation, estate, or trust, the tax credit allowable shall be for qualified expenses incurred by the entity for the taxable year. The expenses upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

All claims, including amended claims, for a tax credit shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure constitutes a waiver of the right to claim the credit.

Defines "Qualified expenses" as costs that are necessary and directly incurred by the taxpayer for the design, materials, installation, and construction of one or more safe rooms located on the taxpayer's property.

Defines "Safe room" as a windowless room within a residence or within an accessory building to a residence, designed and constructed to resist the effects of wind pressures and to resist impact from windborne debris; provided that the room:

- (1) Is not located in a flood zone, storm surge, or other area susceptible to flooding;
- (2) Is readily accessible to persons residing within the residence; and
- (3) Is designed and constructed pursuant to hurricane standards that are, at a minimum, in compliance with:

(A) Federal Emergency Management Agency Publication 320 "Taking Shelter from the Storm: Building or Installing a Safe Room for Your Home", March 2021 edition, as amended; and

(B) Federal Emergency Management Agency Publication 361 "Safe Rooms for Tornadoes and Hurricanes: Guidance for Community and Residential Safe Rooms", April 2021 edition, as amended.

EFFECTIVE DATE: Taxable years beginning after December 31, 2024.

STAFF COMMENTS: Lawmakers need to keep in mind 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 generous about the expenditure of these funds when we need money to support victims of natural disasters like the Maui wildfires, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

In any event, a direct appropriation to create a subsidy program, as is now done for energy saving devices, would be more accountable and transparent.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation may be a far less costly method to accomplish the same thing.

Digested: 1/22/2025