

Linda Lingle  
GOVERNOR



KAREN SEDDON  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of  
**Karen Seddon**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON FINANCE**

April 2, 2009, 4:30 p.m.  
Room 308, State Capitol

In consideration of  
**S.B. 1118, S.D. 2, H.D. 1**  
**RELATING TO LOW-INCOME HOUSING.**

The HHFDC **supports** S.B. 1118, S.D. 2, H.D. 1. This bill will provide flexibility needed to jump start stalled affordable rental housing projects for families at or below 60 percent of the area median income.

The State Low-Income Housing Tax Credit loan mechanism proposed in the H.D. 1 appears to mirror similar provisions in the American Recovery and Reinvestment Act of 2009 meant to assist projects receiving competitive Federal Low-Income Housing Tax Credits. As the State of Hawaii's Low-Income Housing Tax Credit allocating agency, we support creation of an analogous loan option for the State Credit.

The HHFDC also supports the Department of Taxation's proposed technical amendments. We also respectfully request that the Committee consider filling in the blank percentage amount in section 1 (page 1, line 11 of the H.D. 1) with **seventy** per cent. At that percentage amount, discounted to present day value and capitalized at the prevailing interest rate on taxable general obligation bonds, currently 7 percent, the Department of Taxation has informed us that this program would be budget neutral. A proposed H.D. 2 incorporating the Department of Taxation's proposed technical amendments and our suggested percentage amount is attached for the Committee's consideration.

Thank you for the opportunity to testify.

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# A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Chapter 201H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201H- Low-income housing tax credit loan. (a) The corporation may provide a no interest low-income housing tax credit loan to an owner of a qualified low-income building that has been awarded federal credits which are subject to the state housing credit ceiling under Section 42(h)(3)(C) of the Internal Revenue Code or a subaward under Section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. The loan shall be in an amount equal to seventy per cent of the cash value of the amount of the low-income housing credit that would otherwise have been claimable with respect to the qualified low-income building under section 235-110.8 for each taxable year in the ten year credit period discounted to present day value and

capitalized at the rate of interest on the taxable general obligation bonds used to fund such loan.

(b) A qualified low-income building for which the owner is provided a low-income housing tax credit loan under this section shall not be eligible for the credit under section 235-110.8.

(c) The corporation shall impose conditions or restrictions on the low-income housing tax credit loan including:

(1) A requirement providing for acceleration and repayment, on any no interest loan under this section so as to assure that the building with respect to which such loan is made remains a qualified low-income building under Section 42 of the Internal Revenue Code or Section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. Any such repayment shall be payable to the housing finance revolving fund and may be enforced by means of liens or such other methods as the corporation deems appropriate;

(2) The same limitations on rent, income, and use restrictions on such buildings as an allocation of housing credit dollar amount allocated under section 42 of the Internal Revenue Code; and

(3) The payment of reasonable fees for the corporation to perform or cause to be performed asset management functions to ensure compliance with Section 42 of the Internal Revenue Code and the long-term viability of buildings funded by any no interest loan under this section.

(d) The corporation shall perform asset management functions to ensure compliance with Section 42 of the Internal Revenue Code or Section 1602 of the American Recovery and Reinvestment Act of 2009, and the long-term viability of buildings funded by a no interest loan under this section.

(e) The corporation may collect reasonable fees from the owner of a qualified low-income building to cover expenses associated with the performance of its duties under this section and may retain an agent or other private contractor to satisfy the requirements of this section.

(f) If the owner is not in default, the corporation shall contribute the no interest loan to the owner of the qualified low-income building after thirty years.

(g) For purposes of this section "qualified low-income building" shall have the same meaning as used in Section 42(c)(2) of the Internal Revenue Code"

SECTION 2. Section 235-110.8, Hawaii Revised Statutes, is amended to read as follows:

"§235-110.8 Low-income housing tax credit. (a) Section 42 (with respect to low-income housing credit) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this section. A qualified low-income building that has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, shall also be eligible for the credit provided in this section.

(b) Each taxpayer subject to the tax imposed by this chapter, who has filed [+]a[+] net income tax return for a taxable year may claim a low-income housing tax credit against the taxpayer's net income tax liability. The amount of the credit shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed on a timely basis. A credit under this section may be claimed whether or not the taxpayer claims a federal low-income housing tax credit pursuant to [~~section~~] Section 42 of the Internal Revenue Code.

(c) The amount of the low-income housing tax credit that may be claimed by a taxpayer as provided in subsection (b) shall be fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The applicable percentage shall be calculated as provided in [~~section~~] Section 42(b) of the Internal Revenue Code. If a qualified low-income

building has been awarded a subaward under Section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for purposes of subsection (b), the amount of the low-income housing tax credit shall be equal to fifty per cent of the amount of federal low-income housing tax credits that would have been allocated to the qualified low-income building pursuant to Section 42(b) of the Internal Revenue Code by the Hawaii housing finance and development corporation had a subaward not been awarded with respect to the qualified low-income building.

(d) For the purposes of this section, the determination of:

- (1) Qualified basis and qualified low-income building shall be made under section 42(c);
- (2) Eligible basis shall be made under section 42(d);
- (3) Qualified low-income housing project shall be made under section 42(g);
- (4) Recapture of credit shall be made under section 42(j), except that the tax for the taxable year shall be increased under section 42(j)(1) only with respect to credits that were used to reduce state income taxes;  
and
- (5) Application of at-risk rules shall be made under section 42(k);

( ) of the Internal Revenue Code.

(e) As provided in section 42(e), rehabilitation expenditures shall be treated as a separate new building and their treatment under this section shall be the same as in section 42(e). The definitions and special rules relating to credit period in section 42(f) and the definitions and special rules in section 42(i) shall be operative for the purposes of this section.

(f) The state housing credit ceiling under section 42(h) shall be zero for the calendar year immediately following the expiration of the federal low-income housing tax credit program and for any calendar year thereafter, except for the carryover of any credit ceiling amount for certain projects in progress which, at the time of the federal expiration, meet the requirements of section 42.

(g) The credit allowed under this section shall be claimed against net income tax liability for the taxable year. For the purpose of deducting this tax credit, net income tax liability means net income tax liability reduced by all other credits allowed the taxpayer under this chapter.

A tax credit under this section which exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section must 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 to properly and timely claim the credit shall constitute a waiver of the right to claim the credit. A taxpayer may claim a credit under this section only if the building or project is a qualified low-income housing building or a qualified low-income housing project under ~~[section]~~ Section 42 of the Internal Revenue Code.

Section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall be applied in claiming the credit under this section.

(h) In lieu of the credit awarded under this section to a qualified low-income building that has been awarded federal credits which are subject to the state housing credit ceiling under Section 42(h)(3)(C) of the Internal Revenue Code or a subaward under Section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the owner of the qualified low-income building may make a request to the Hawaii housing finance and development corporation for a loan under section 201H- . If the owner elects to receive the loan pursuant to section 201H- , the qualified low-income building shall not be eligible for the credit under this section.

~~[(h)]~~ (i) The director of taxation may adopt any rules under chapter 91 and forms necessary to carry out this section."

SECTION 3. The director of finance is authorized to issue general obligation bonds in the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2009-2010 for low-income housing tax credit loans made pursuant to section 201H-\_\_\_\_.

SECTION 4. The appropriation made for the low-income housing tax credit loans authorized by this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2011, shall lapse as of that date.

SECTION 5. The sum appropriated may be expended by the Hawaii housing finance and development corporation for the purpose of making low-income housing tax credit loans.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 1, 2110, and shall apply to qualified low-income buildings placed in service after December 31, 2009.

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
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SANDRA L. YAHIRO  
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## HOUSE COMMITTEE ON FINANCE

### TESTIMONY REGARDING SB 1118 SD 2 HD 1 RELATING TO LOW-INCOME HOUSING

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: APRIL 2, 2009

TIME: 4:30PM

ROOM: 308

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This legislation establishes a low-income housing loan program administered by the Hawaii Housing Finance and Development Corporation (HHFDC) in which developers may elect to participate in lieu of receiving Hawaii low-income housing tax credits. The measure also authorizes the Director of Finance to issue general obligation bonds to finance the new loan program.

The Department **supports** this measure as it encourages investment in low-income housing and offers **comments**. It is the Department's understanding that given the current economic climate, there is no market for low-income housing tax credits. The loan program provides developers the option of monetizing the otherwise unmarketable low-income tax credits.

**TECHNICAL COMMENTS ON THE PROPOSED LOW-INCOME HOUSING TAX CREDIT LOAN PROGRAM** – The Department defers to HHFDC regarding the merits of the loan program provided in Section 1 of the legislation, and offers the following technical comments:

- The last sentence of §201H- (a) should be clarified (clarification noted in **bold**) to provide that "[t]he loan amount shall be in an amount equal to      per cent of the cash value of the amount of the low-income housing credit **that would otherwise have been claimable with respect to the qualified low-income building determined under section 235-110.8 for each taxable year in the ten year credit period discounted to present day value and capitalized at the rate of interest on the taxable general obligation bonds used to fund such loan.**"
- As is consistent with §1602 of the American Recovery and Reinvestment Act of 2009 (the "2009 Recovery Act"), which allows states to elect to receive low-income housing grants in lieu of low-income housing tax credit allocations, the recapture provisions delineated in §201H- (c)(1) should provide that any required repayment

of the loan resulting from recapture "**may be enforced by means of liens or such other methods as the corporation deems appropriate.**"

- To provide both the State and developers with certainty as to the cost and benefit at the end of the thirty year period specified in §201H- (f), general repayment terms of the low-income housing loan should be provided. Without repayment, the "loan" program essentially converts Hawaii's nonrefundable low-income housing tax credit into a refundable credit.
- The term "qualified low-income building" should be defined (either as that term is used in §235-110.8, HRS, or §42(c) of the Internal Revenue Code).

**TECHNICAL COMMENTS ON SECTION 2 OF THE LEGISLATION**— The Recovery Act of 2009 allows taxpayers (e.g., developers, investors) to receive federal low-income housing subawards in lieu of federal low-income housing tax credits. The amount of Hawaii's low-income housing tax credit that a taxpayer may claim is a percentage of the federal low-income housing tax credit that a taxpayer may claim. To clarify that a taxpayer may claim a Hawaii low-income housing tax credit even if the taxpayer elects to receive a federal low-income housing subaward in lieu of federal low-income housing tax credits, the Department suggests that §235-110.8(c) be amended as follows (suggested amendments are noted in **bold**):

(c) The amount of the low-income housing tax credit that may be claimed by a taxpayer as provided in subsection (b) shall be fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The applicable percentage shall be calculated as provided in ~~[section]~~ Section 42(b) of the Internal Revenue Code. **If a qualified low-income building has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for purposes of subsection (b), the amount of the low-income housing tax credit shall be equal to fifty per cent of the amount of federal low-income housing tax credits that would have been allocated to the qualified low-income building pursuant to Section 42(b) of the Internal Revenue Code by the Hawaii Housing Finance & Development Corporation had a subaward not been awarded with respect to the qualified low-income building.**

**REVENUE IMPACT:** Assuming that the low-income housing loan amount is seventy per cent (as recommended by HHFDC) of the cash value of the amount of the low-income housing credit that would otherwise have been awarded, and assuming that the "loan" is essentially a grant (i.e., no repayment required), this measure would be budget neutral.

  
OFFICE OF HAWAIIAN AFFAIRS  
Legislative Testimony

**SB 1118, SD 2, HD 1 (HSCR 1184) Relating to Low-Income  
Housing**

House Committee On Finance

April 2,, 2009  
308

4:30 a.m.

Room

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The Office of Hawaiian Affairs supports the purpose and intent of SB 1118, SD 2, HD 1.

The growing affordable housing problem is one of the most critical issues faced by our communities, especially our Native Hawaiian communities. This issue seems to have many of our families struggling to find adequate housing and to make ends meet.

OHA recognizes housing is the highest cost item for our families and more needs to be done to address the affordable housing issue or our families will continue to move down the economic and social ladder.

Additional incentives for the development of affordable housing is definitely an opportunity we need to consider to get affordable rentals and affordable for sale units to our residents. Government's responsibility is to look at the viability of many different types of incentives to provide to developers of affordable units.

OHA also advocates a commitment to reestablishing the relationship between the art of building and the making of community, through citizen-based participatory planning and design. Therefore, the resources obtained to devote full time attention to the process of developing partners to do affordable rentals and for sale units timely need to include the related communities.

Mahalo nui loa for the opportunity to provide this testimony.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Low-income housing credit

BILL NUMBER: SB 1118, HD-1

INTRODUCED BY: House Committee on Housing

BRIEF SUMMARY: Amends HRS section 235-110.8 to provide that a qualified low-income building that has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, shall also be eligible for the credit provided in this section.

In lieu of the low-income housing credit under this section, the owner of a qualified low-income building that has been awarded federal credits which are subject to the state housing credit ceiling under Section 42(h)(3)(C) of the Internal Revenue Code or a subaward under Section 1602 of the American Recovery and Reinvestment Act of 2009 (P.L.111-5) may make a request to the Hawaii housing finance and development corporation (HHFDC) for a loan under section 201H-\_\_\_\_. If the owner elects to receive the loan pursuant to section 201H-\_\_\_\_, the qualified low-income building shall not be eligible for the credit under this section.

Adds a new section to HRS chapter 201H to permit the HHFDC to offer a no interest low-income housing tax credit loan to an owner of a qualified low-income building that has been awarded federal credits which are subject to the state housing credit ceiling under Section 42(h)(3)(C) of the Internal Revenue Code or a subaward under Section 1602 of the American Recovery and Reinvestment Act of 2009 (P.L.111-5).

Authorizes the director of finance to issue G.O. bonds in the sum of \$ \_\_\_\_\_ for fiscal year 2010 for the low-income housing tax credit loans.

This measure shall be applicable to qualified low-income buildings placed in service after December 31, 2009.

EFFECTIVE DATE: January 1, 2110

STAFF COMMENTS: This was an administration measure originally submitted by the department of business, economic development and tourism BED-02 (09). The legislature by Act 216, SLH 1988, adopted the federal low-income housing credit which was part of the Tax Reform Act of 1986. The credit was enacted to offset the repeal of tax shelters and other incentives to build rental housing under prior law, such as accelerated depreciation, capital gains preference, certain tax-exempt bonds, etc., and to specifically target low-income rentals.

The proposed measure would allow an owner of a qualified low-income building that has been awarded a subaward under the American Recovery and Reinvestment Act of 2009 to receive a no interest loan instead of the state low-income housing tax credit. This approach is being adopted for the federal credit

in light of the tight credit markets nationally. Further, because the low income housing tax credit must now compete with more generous and lucrative tax credits, such as those available for investment in qualified high technology activities, it is being by-passed. Thus, monetizing the credits in the form of grants and loans will help facilitate these projects.

While this is just one incentive to encourage developers to build affordable housing, consideration should be given to a number of strategies including the debt financing, partnerships with financial institutions who could then turn around and sell the credits, and the use of federal private activity bonds. Finally, apparently public officials still have not recognized that one of the greatest contributors to the cost of housing in Hawaii is the draconian maze of permitting and regulatory processes in order to bring those homes to market. While those regulatory guidelines are to insure the health and safety of the public, streamlining the process would accelerate the time needed to secure those permits thereby reducing the cost of financing. This savings would go a long way toward reducing the final cost of the house to the consumer. For example, for one housing project on Kauai it took nearly five years to secure the necessary permits to build 14 affordable homes.

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April 1, 2009

**Representative Marcus R. Oshiro, Chair**  
House Committee on Finance  
State Capitol, Room 308  
Honolulu, Hawaii 96813

**RE: S.B. 1118, S.D.2, H.D.1, Relating to Low-Income Housing**

**HEARING DATE:** Thursday, April 2, 2009 at 4:30 p.m.

Aloha Chair Oshiro and Members of the Committee:

I am Craig Hirai, a member of the Subcommittee on Taxation and Finance of the Government Affairs Committee of the Hawai'i Association of REALTORS® ("HAR"), here to testify on behalf of the HAR and its 9,600 members in Hawai'i. HAR supports S.B. 1118, S.D.2, H.D.1, Relating to Low-Income Housing, which establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits.

HAR has historically supported mechanisms to help increase the supply of low and moderate income affordable housing such as the Rental Housing Trust Fund Program which can help integrate the use of mixed-income and mixed-use projects, special purpose revenue bonds, low-interest loans, block grants, low-income housing tax credit programs and deferred loan programs to provide rental housing opportunities.

HAR believes that it may be difficult for a qualified low-income building to sell State Low-Income Housing Credits at a reasonable price if it receives a subaward from the HHFDC under Sections 1602 and 1404 of the American Recovery and Reinvestment Tax Act of 2009 and has no Federal Low-Income Housing Tax Credits to sell.

The intent of S.B. 1118, S.D.2, H.D.1, is to give owners of qualified low-income buildings an election to "monetize" the State Low-Income Housing Tax Credits in a manner similar to what the federal government has done with "exchange program" for subawards under Sections 1602 and 1404 of the American Recovery and Reinvestment Tax Act of 2009. Like the federal election, this election would be in lieu of receiving State Low-Income Housing Tax Credits under HRS §235-110.8.

Because the State cannot afford to fund an up-front award like the federal government, and because the State cannot generally appropriate funds for a period as long as the 10-year credit period for the federal and Hawaii Low-Income Housing Tax Credits, S.B. 1118, S.D.2, H.D.1, uses taxable general obligation bond proceeds in an amount equal to an unspecified percentage of the present value of the annual State Low-Income Housing Tax Credits a qualified low-income building would currently receive under HRS §235-110.8 discounted at the rate of interest the State pays on the taxable general obligation bonds.



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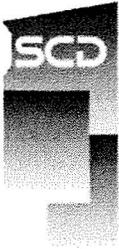
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From an economic standpoint, HAR would argue that, if elected by an owner of a qualified low-income building, S.B. 1118, S.D.2, H.D.1 (with the unspecified percentage properly filled in after consultation with the HHFDC), should not result in any net revenue loss to the State over the current 10-year credit period under HRS §235-110.8. This could help both the State and the property owner by setting a floor for a qualified low-income building's State Low-Income Housing Tax Credits, thus making it unnecessary to sell credits at an unreasonable discount.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.



STANFORD CARR DEVELOPMENT, LLC

April 1, 2009

House Committee on Finance  
State Capitol, Conference Room 308  
415 South Beretania Street  
Honolulu, Hawaii

RE: Testimony Supporting SB 1118 SD2 HD1: Relating To Low-Income  
Hearing date Thursday, April 2, 2009 at 4:30 PM

Dear Honorable Chair Representative Marcus Oshiro:

I am writing in **SUPPORT** of SB 1118 SD2 HD1 which established a program for granting low-income housing tax credit loans in lieu of low-income housing tax credit allocations by the Hawaii Housing Finance and Development Corporation. By exchanging the state tax credit allocations for a deferred payment loan, we are more effectively using our existing resources to create affordable housing units here in Hawaii.

The proposed language follows Section 1602 of the American Recovery and Reinvestment Act of 2009 (Stimulus Bill) where the Internal Revenue Service has been directed to allow states to monetize portions of their volume-cap (9%) low income housing tax credits. It should be noted that 9% tax credit projects create approximately 125 affordable housing units each year here in Hawaii. **We are writing to request that the proposed legislation to monetize the state tax credits should also apply to non-volume cap (4%) projects, these projects produce an additional +/-125 units each year (approximately half of overall production total).** Including these projects will result in more efficient use of the existing subsidies like the Rental Housing Trust Fund and directly increase overall affordable housing production levels (assuming the state adopts the same exchange rate as identified in the Stimulus Bill). To implement this, SB1118 SD2 HD1 should be modified as follows (see capitalized emphasis for proposed changes, a similar modification will be required under §235-110.8 (h) as proposed in SB1118 SD2 HD1):

“§201H- Low-income housing tax credit loan. (a) The corporation may provide a no interest low-income tax credit loan to an owner of a qualified low-income building that has been awarded federal credits which are subject to the state housing credit ceiling under Section 42(h)(c), FEDERAL CREDITS WHICH ARE ALLOCATED PURSUANT TO SECTION 42(H)(4) OF THE INTERNAL REVENUE CODE, or a subaward under Section 1602 of the American ...”

Thank you for considering our testimony, we look forward to participating in solving this difficult problem while building better communities for our future generation. Please feel free to contact Jesse Wu of my staff (808-990-5678) if you have any questions.

Sincerely,

Stanford S. Carr, President

Jesse Wu, Vice President | Special Projects

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# A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 201H, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§201H- Low-income housing tax credit loan. (a) The  
5 corporation may provide a no interest low-income housing tax  
6 credit loan to an owner of a qualified low-income building that  
7 has been awarded federal credits which are subject to the state  
8 housing credit ceiling under Section 42(h)(3)(C) of the Internal  
9 Revenue Code or a subaward under Section 1602 of the American  
10 Recovery and Reinvestment Act of 2009, Public Law 111-5. The  
11 loan shall be in an amount equal to           per cent of the cash  
12 value of the amount of the low-income housing credit determined  
13 under section 235-110.8 for each taxable year in the ten year  
14 credit period discounted to present day value and capitalized at  
15 the rate of interest on the taxable general obligation bonds  
16 used to fund such loan.

" federal credits which are allocated pursuant to section 42(h)(4) of the Internal Revenue Code"



1        (b) A qualified low-income building for which the owner is  
2 provided a low-income housing tax credit loan under this section  
3 shall not be eligible for the credit under section 235-110.8.

4        (c) The corporation shall impose conditions or  
5 restrictions on the low-income housing tax credit loan  
6 including:

7        (1) A requirement providing for acceleration and  
8 repayment, on any no interest loan under this section  
9 so as to assure that the building with respect to  
10 which such loan is made remains a qualified low-income  
11 building under Section 42 of the Internal Revenue Code  
12 or Section 1602 of the American Recovery and  
13 Reinvestment Act of 2009, Public Law 111-5. Any such  
14 repayment shall be payable to the housing finance  
15 revolving fund;

16        (2) The same limitations on rent, income, and use  
17 restrictions on such buildings as an allocation of  
18 housing credit dollar amount allocated under section  
19 42 of the Internal Revenue Code; and

20        (3) The payment of reasonable fees for the corporation to  
21 perform or cause to be performed asset management  
22 functions to ensure compliance with Section 42 of the



1           Internal Revenue Code and the long-term viability of  
2           buildings funded by any no interest loan under this  
3           section.

4           (d) The corporation shall perform asset management  
5           functions to ensure compliance with Section 42 of the Internal  
6           Revenue Code or Section 1602 of the American Recovery and  
7           Reinvestment Act of 2009, and the long-term viability of  
8           buildings funded by a no interest loan under this section.

9           (e) The corporation may collect reasonable fees from the  
10           owner of a qualified low-income building to cover expenses  
11           associated with the performance of its duties under this section  
12           and may retain an agent or other private contractor to satisfy  
13           the requirements of this section.

14           (f) If the owner is not in default, the corporation shall  
15           contribute the no interest loan to the owner of the qualified  
16           low-income building after thirty years."

17           SECTION 2. Section 235-110.8, Hawaii Revised Statutes, is  
18           amended to read as follows:

19           "§235-110.8 Low-income housing tax credit. (a) Section  
20           42 (with respect to low-income housing credit) of the Internal  
21           Revenue Code shall be operative for the purposes of this chapter  
22           as provided in this section. A qualified low-income building



1 that has been awarded a subaward under section 1602 of the  
2 American Recovery and Reinvestment Act of 2009, Public Law 111-  
3 5, shall also be eligible for the credit provided in this  
4 section.

5 (b) Each taxpayer subject to the tax imposed by this  
6 chapter, who has filed ~~[+]a[+]~~ net income tax return for a  
7 taxable year may claim a low-income housing tax credit against  
8 the taxpayer's net income tax liability. The amount of the  
9 credit shall be deductible from the taxpayer's net income tax  
10 liability, if any, imposed by this chapter for the taxable year  
11 in which the credit is properly claimed on a timely basis. A  
12 credit under this section may be claimed whether or not the  
13 taxpayer claims a federal low-income housing tax credit pursuant  
14 to ~~[section]~~ Section 42 of the Internal Revenue Code.

15 (c) The amount of the low-income housing tax credit that  
16 may be claimed by a taxpayer as provided in subsection (b) shall  
17 be fifty per cent of the applicable percentage of the qualified  
18 basis of each building located in Hawaii. The applicable  
19 percentage shall be calculated as provided in ~~[section]~~ Section  
20 42(b) of the Internal Revenue Code.

21 (d) For the purposes of this section, the determination  
22 of:



- 1           (1) Qualified basis and qualified low-income building
- 2                   shall be made under section 42(c);
- 3           (2) Eligible basis shall be made under section 42(d);
- 4           (3) Qualified low-income housing project shall be made
- 5                   under section 42(g);
- 6           (4) Recapture of credit shall be made under section 42(j),
- 7                   except that the tax for the taxable year shall be
- 8                   increased under section 42(j)(1) only with respect to
- 9                   credits that were used to reduce state income taxes;
- 10                   and
- 11           (5) Application of at-risk rules shall be made under
- 12                   section 42(k);

13 of the Internal Revenue Code.

14           (e) As provided in section 42(e), rehabilitation

15 expenditures shall be treated as a separate new building and

16 their treatment under this section shall be the same as in

17 section 42(e). The definitions and special rules relating to

18 credit period in section 42(f) and the definitions and special

19 rules in section 42(i) shall be operative for the purposes of

20 this section.

21           (f) The state housing credit ceiling under section 42(h)

22 shall be zero for the calendar year immediately following the

1 expiration of the federal low-income housing tax credit program  
2 and for any calendar year thereafter, except for the carryover  
3 of any credit ceiling amount for certain projects in progress  
4 which, at the time of the federal expiration, meet the  
5 requirements of section 42.

6 (g) The credit allowed under this section shall be claimed  
7 against net income tax liability for the taxable year. For the  
8 purpose of deducting this tax credit, net income tax liability  
9 means net income tax liability reduced by all other credits  
10 allowed the taxpayer under this chapter.

11 A tax credit under this section which exceeds the  
12 taxpayer's income tax liability may be used as a credit against  
13 the taxpayer's income tax liability in subsequent years until  
14 exhausted. All claims for a tax credit under this section must  
15 be filed on or before the end of the twelfth month following the  
16 close of the taxable year for which the credit may be claimed.  
17 Failure to properly and timely claim the credit shall constitute  
18 a waiver of the right to claim the credit. A taxpayer may claim  
19 a credit under this section only if the building or project is a  
20 qualified low-income housing building or a qualified low-income  
21 housing project under ~~[section]~~ Section 42 of the Internal  
22 Revenue Code.



" , federal credits which are allocated pursuant to section 42(h)(4) of the Internal Revenue Code"

1 Section 469 (with respect to passive activity losses and  
2 credits limited) of the Internal Revenue Code shall be applied  
3 in claiming the credit under this section.

4 (h) In lieu of the credit awarded under this section to a  
5 qualified low-income building that has been awarded federal  
6 credits which are subject to the state housing credit ceiling  
7 under Section 42(h)(3)(C) of the Internal Revenue Code or a  
8 subaward under Section 1602 of the American Recovery and  
9 Reinvestment Act of 2009, Public Law 111-5, the owner of the  
10 qualified low-income building may make a request to the Hawaii  
11 housing finance and development corporation for a loan under  
12 section 201H- . If the owner elects to receive the loan  
13 pursuant to section 201H- , the qualified low-income  
14 building shall not be eligible for the credit under this  
15 section.

16 ~~[-(h)]~~ (i) The director of taxation may adopt any rules  
17 under chapter 91 and forms necessary to carry out this section."

18 SECTION 3. The director of finance is authorized to issue  
19 general obligation bonds in the sum of \$ or so much  
20 thereof as may be necessary and the same sum or so much thereof  
21 as may be necessary is appropriated for fiscal year 2009-2010.

1 for low-income housing tax credit loans made pursuant to section  
2 201H-\_\_\_\_.

3 SECTION 4. The appropriation made for the low-income  
4 housing tax credit loans authorized by this Act shall not lapse  
5 at the end of the fiscal year for which the appropriation is  
6 made; provided that all moneys from the appropriation  
7 unencumbered as of June 30, 2011, shall lapse as of that date.

8 SECTION 5. The sum appropriated may be expended by the  
9 Hawaii housing finance and development corporation for the  
10 purpose of making low-income housing tax credit loans.

11 SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on January 1, 2110,  
14 and shall apply to qualified low-income buildings placed in  
15 service after December 31, 2009.



S.B. NO. 1118  
S.D. 2  
H.D. 1

**Report Title:**

Low-Income Housing; Tax Credit

**Description:**

Establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits administered by the Hawaii Housing Finance and Development Corporation.  
Authorizes issuance of GO bonds to fund loans. (SB1118 HD1)

SB1118 HD1 HMS 2009-3250

