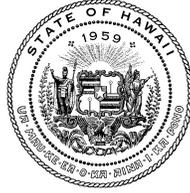


SB1161

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
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SENATE COMMITTEE ON EDUCATION & HOUSING

TESTIMONY REGARDING SB 1161 RELATING TO TAXATION

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

DATE: FEBRUARY 9, 2009

TIME: 1:15PM

ROOM: 225

This legislation modifies the definition of the "credit period" under the low income housing tax credit provisions.

Although we **support the intent** of this measure, we **OPPOSE this measure as it does not accomplish what it purports to do as explained further below. The Department prefers SB 861.**

Under current law, §235-110.8 allows an eligible taxpayer to claim 50% of the federal low income housing credit over a period of ten years. The federal low-income housing tax credit is claimed over ten years. We are uncertain as to the intent of this measure, but if the intent was to accelerate the credit period for Hawaii's low-income housing tax credits, allowing eligible taxpayer's to claim an aggregate 50% of the amount of the federal credit over five years instead of ten, this will not be accomplished as drafted.

§42 of the Internal Revenue Code (the "Code"), which Hawaii conforms to, allows eligible taxpayers to obtain a credit equal to the present value of 70% of the qualified basis of new low income housing buildings that are not federally subsidized. On a monthly basis, the Internal Revenue Service publishes the "applicable percentage" that when applied to the qualified basis of a qualified building, results in the annual credit amount available for each of the first ten years after the project is placed in service that, in the aggregate, equals 70% of the qualified basis of the low income housing project. The IRS bases its applicable percentage calculation on §42(b) of the Code, which does not reference the credit period. Rather, §42(b)(1)(B) states that "[t]he percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit . . . which have a present value equal to . . . 70% of the qualified basis of a new building."

Department of Taxation Testimony

SB 1161

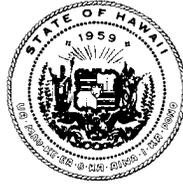
February 9, 2009

Page 2 of 2

In order to effectuate what we believe this measure intends, the bill would need to be amended to specifically revise the calculation provided by §42(b). Even if this measure were amended as such, additional administrative burdens would be placed on whichever State agency is required to recalculate the applicable percentage as the calculation is complex.

The revenue impact for this measure is a revenue loss: FY 10, no impact; FY11:\$0.6 million, FY12: \$1.3 million; FY13: \$1.6 million; FY14: \$1.6 million; and FY15: \$1.7 million.

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

SENATE COMMITTEE ON EDUCATION AND HOUSING

February 9, 2009 1:15 p.m.
Room 225, State Capitol

In consideration of
S.B. 1161
RELATING TO LOW INCOME HOUSING TAX CREDIT.

The Hawaii Housing Finance and Development Corporation (HHFDC) **opposes** S.B. 1161 as drafted because the net effect would be to cut the value of the State Low-Income Housing Tax Credit (LIHTC) by 50 percent.

S.B. 1161 would take the State LIHTC out of conformity with the Federal LIHTC by shortening the credit period from 10 years to 5 years. However, it does not adjust the method by which the State credit is calculated to take into account a 5 year rather than 10 year credit period – essentially shorting affordable housing developers of 5 years worth of State LIHTC.

We respectfully request that this bill be amended by replacing its contents with the contents of S.B. 861, which shortens the State LIHTC credit period and makes the necessary adjustments to ensure that the total value of the State LIHTC remains the same.

Thank you for the opportunity to testify.

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 184; SB 1161 (Similar)

INTRODUCED BY: SB 184 by Chun Oakland and 5 Democrats; SB 1161 by Sakamoto

BRIEF SUMMARY: SB 184 amends HRS section 235-110.8 to provide that for a low-income housing project placed in service beginning on January 1, 2010: (1) pursuant to IRC section 42(b)(2)(B) the credit period for the low-income housing credit shall be taken over a five-year period instead of the current 10-year period; (2) pursuant to IRC section 42(b)(2)(B) the state housing credit shall be 100% of the applicable percentage of the qualified basis of each building located in Hawaii.

Also provides that for a low-income housing project placed in service beginning on January 1, 2010 pursuant to IRC section 42(f)(1) the credit period for the low-income housing credit shall be taken over a five-year period instead of the current 10-year period.

SB 1161 provides that for a low-income housing project placed in service beginning on January 1, 2009 pursuant to IRC section 42(f)(1) the credit period for the low-income housing credit shall be taken over a five-year period instead of the current 10-year period.

EFFECTIVE DATE: SB 184 - Tax years beginning after December 31, 2008; SB 1161 - January 10, 2020; applicable to tax years beginning after December 31, 2009

STAFF COMMENTS: The legislature by Act 216, SLH 1988, adopted the federal low-income rental 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 federal credit is a 70% present value credit for qualified new construction and rehabilitation expenditures which are not federally subsidized, and 30% for those which are federally subsidized. While the existing state credit allows for a credit of 50% of the “applicable percentage of the qualified basis” allowed under federal law taken over a period of 10 years, the proposed measures would increase the state credit to 100% and shorten the time period to five years.

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.

It should be noted that Congress is currently considering as part of the Stimulus package, an acceleration of the low-income tax credit to a five-year period as this measure proposes for the state's low-income housing tax credit. There is also discussion of including \$5 billion in additional stimulus funds for affordable housing to fill the "gap" in this market along more stringent recapture of the low-income housing tax credit to insure that these projects remain affordable.

Finally, it should be noted that while it has been difficult to sell the state tax credits because of the freeze in the credit markets, the state low-income housing tax credits are also being by-passed because they must now compete with more generous credits such as the credit for investment in qualified high technology businesses. Thus, the incentive for affordable housing is being thwarted by those other generous credits.

Digested 2/6/09



KAMEHAMEHA SCHOOLS

February 6, 2009

Testimony to the Senate Committee on Education and Housing

By: Michael G. Dang, Director
Endowment / Planning & Development

Hearing Date: Monday, February 9, 2009
1:15 p.m. – Conference Room 225

To: Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
Members of the Committee

Re: SB 1161: Relating to Low Income Housing Tax Credit.

Kamehameha Schools supports the purpose and intent of this bill. We support policies that encourage and support the actual building of more housing for Hawaii's people.

Thank you for the opportunity to testify on this legislation.

567 South King Street • Honolulu, Hawai'i 96813-3036 • Phone 808-523-6200

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Director – Kirk

Caldwell, City and
County of Honolulu

Director – Kamaile

Sombelon, Lokahi
Pacific

Executive Director
Nani Medeiros

February 9, 2009

The Honorable Norman Sakamoto, Chair
Senate Committee on Education and Housing
Hawaii State Capitol, Room 230
Honolulu, HI 96813

Dear Chair Sakamoto and Members:

RE: SB 1161, RELATING TO LOW INCOME HOUSING TAX CREDIT

I am Nani Medeiros, Executive Director of Housing Hawaii, testifying on Senate Bill 1161, Relating to Low Income Housing Tax Credit. This bill clarifies the meaning of the term “credit period” in applicable Internal Revenue Code sections with regard to the low income tax credit.

Housing Hawaii **supports the intent** of this bill. Thank you for the opportunity to comment.

Nani Medeiros
Executive Director

Housing Hawaii, 841 Bishop Street, Suite 2208, Honolulu, HI 96813

Phone: 808-469-7774

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