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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 tax credits which are subject to the  
8       state housing tax credit ceiling under section 42(h)(3)(C) of  
9       the Internal Revenue Code or a subaward under section 1602 of  
10       the American Recovery and Reinvestment Act of 2009, Public Law  
11       111-5. The loan shall be in an amount equal to seventy per cent  
12       of the cash value of the amount of the low-income housing tax  
13       credit that would otherwise have been claimable with respect to  
14       the qualified low-income building under section 235-110.8, for  
15       each taxable year in the ten-year credit period discounted to  
16       present day value and capitalized at the rate of interest on the  
17       taxable general obligation bonds used to fund the loan.

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 state income tax credit under  
4 section 235-110.8.

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

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

18        (2) The same limitations on rent and income and use  
19 restrictions as under an allocation of a housing  
20 credit dollar amount allocated under section 42 of the  
21 Internal Revenue Code; and

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

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

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

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

20      (g) For purposes of this section "qualified low-income  
21      building" shall have the same meaning as used in section  
22      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 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

1 be fifty per cent of the applicable percentage of the qualified  
2 basis of each building located in Hawaii. The applicable  
3 percentage shall be calculated as provided in section 42(b) of  
4 the Internal Revenue Code. If a qualified low-income building  
5 has been awarded a subaward under section 1602 of the American  
6 Recovery and Reinvestment Act of 2009, Public Law 111-5, for  
7 purposes of subsection (b), the amount of the low-income housing  
8 tax credit shall be equal to fifty per cent of the amount of the  
9 federal low-income housing tax credits that would have been  
10 allocated to the qualified low-income building pursuant to  
11 section 42(b) of the Internal Revenue Code by the Hawaii housing  
12 finance and development corporation had a subaward not been  
13 awarded with respect to the qualified low-income building.

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

16 (1) Qualified basis and qualified low-income building  
17 shall be made under section 42(c);

18 (2) Eligible basis shall be made under section 42(d);

19 (3) Qualified low-income housing project shall be made  
20 under section 42(g);

21 (4) Recapture of credit shall be made under section 42(j),

22 except that the tax for the taxable year shall be

1 increased under section 42(j)(1) only with respect to  
2 credits that were used to reduce state income taxes;  
3 and

4 (5) Application of at-risk rules shall be made under  
5 section 42(k);  
6 of the Internal Revenue Code.

7 (e) As provided in section 42(e) [~~7~~] of the Internal  
8 Revenue Code, rehabilitation expenditures shall be treated as a  
9 separate new building and their treatment under this section  
10 shall be the same as in section 42(e) [~~7~~] of the Internal Revenue  
11 Code. The definitions and special rules relating to credit  
12 period in section 42(f) of the Internal Revenue Code and the  
13 definitions and special rules in section 42(i) of the Internal  
14 Revenue Code shall be operative for the purposes of this  
15 section.

16 (f) The state housing credit ceiling under section 42(h)  
17 of the Internal Revenue Code shall be zero for the calendar year  
18 immediately following the expiration of the federal low-income  
19 housing tax credit program and for any calendar year thereafter,  
20 except for the carryover of any credit ceiling amount for  
21 certain projects in progress which, at the time of the federal

1 expiration, meet the requirements of section 42[~~7~~] of the  
2 Internal Revenue Code.

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

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

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

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

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

14        SECTION 3. The director of finance is authorized to issue  
15 taxable general obligation bonds in the sum of \$                      or so  
16 much thereof as may be necessary and the same sum or so much  
17 thereof as may be necessary is appropriated for fiscal year  
18 2010-2011 for the purpose of low-income housing tax credit loans  
19 made pursuant to section 201H- , Hawaii Revised Statutes.

20        The sum appropriated may be expended by the Hawaii housing  
21 finance and development corporation for the purposes of this  
22 Act.

1       SECTION 4. The appropriation made for the low-income  
2 housing tax credit loans authorized by this Act shall not lapse  
3 at the end of the fiscal year for which the appropriation is  
4 made; provided that all moneys from the appropriation  
5 unencumbered as of June 30, 2012, shall lapse as of that date.

6       SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8       SECTION 6. This Act shall take effect on July 1, 2010 and  
9 shall apply to qualified low-income buildings placed in service  
10 after December 31, 2010.

11

**Report Title:**

Low-Income Housing Tax Credits; Grant Exchange Program

**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 general obligation bonds to fund the loans. Applies to qualified low-income buildings placed in service after 12/31/2010. (SD1)

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