THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

JAN 22 2010

S.B. NO. 2638

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The legislature finds that the economic multiplier effect from large construction projects can have a profound effect on stimulating the economy in this State. Large construction projects in particular can have an enormous positive impact on the workforce in this State, from blue-collar laborers, machinists, material suppliers, architects, lawyers, escrow officers, and realtors to name a few. The urgency for large construction projects to spur or induce a positive economic multiplier is partly evidenced by the impending project in Kapolei that is a joint partnership between the Hawaii housing finance and development corporation and a private builder which will develop one hundred forty affordable residential units that are targeted at the one hundred twenty per cent average median income first-time home buyer. This project is anticipated to begin in early 2010 and will hopefully provide a much needed momentum to turn around the economy in this State.

However, although the project in Kapolei will be a positive step in the right direction for the construction industry, with the looming expiration of the federal government's $8,000 first-time homebuyer income tax credit and $6,500 income tax credit for other qualified homebuyers, the sales absorption of the one hundred forty affordable residential units in Kapolei is expected to be slow, thus delaying or prolonging construction activity for many of these affordable residential units. The expiring federal income tax credit could hamper any momentum that the project in Kapolei develops, which could consequently prevent a complete recovery of the construction industry in this State.

Under normal circumstances, when the sales absorption of completed units is not slow, the development and delivery of one hundred forty residential units would create an estimated one hundred two direct construction jobs over a two-year period. Thus, it seems that stimulating the demand side of buying new homes by providing financial incentives to homebuyers would be the greatest asset in turning around the current economic crisis faced by the construction industry and the overall economy in this State.

A state income tax credit for qualified taxpayers on the purchase of a qualified principal residence that mirrors the federal tax credit would likely provide a source for stimulating the demand side for affordable new housing in Hawaii. In addition, a tax credit that is appropriately crafted could also provide more economic benefits to the State than costs.

For example, if the one hundred forty affordable residential units in Kapolei were purchased by qualified taxpayers and each qualified taxpayer received a refundable income tax credit equal to $6,000, then the total cost to the State for the refundable tax credit would be $840,000 (140 units x $6,000). However, the direct labor costs associated with developing and delivering to market one hundred forty residential units, included the hiring of labor, purchase of materials, and other direct and indirect services is estimated to be $12,400,000. Taking into consideration the windfall of general excise taxes, income taxes, payroll taxes, and the like that would be remitted to the State, the project in Kapolei would generate positive tax revenues for the State of approximately $900,000, and that is assuming that each of the one hundred forty residential units are purchased by a qualified taxpayer that is eligible for and claims the $6,000 refundable tax credit. Thus, the multiplier effect that would be created by a large construction project, such as the impending project in Kapolei, would more than offset any refundable tax credit payments made to taxpayers by the State.

There is widespread concern in the real estate and financing industry in this State that with the looming expiration date of the $8,000 federal tax credit for first-time homebuyers and $6,500 credit for other homebuyers there will be a further decline in the housing and construction industry in this State. Establishing a state income tax credit for qualified taxpayers that purchase a newly constructed principal residence would help to reduce or avoid a potentially crippling housing market scenario in Hawaii once the federal tax credit expires by putting back to work many of Hawaii taxpayers who make a living in the construction industry. A tax credit could also influence contracts to develop a greater supply for affordable housing in this State if the contractors feel that there is sufficient demand for purchasing affordable housing.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a task force to determine the economic contributions of the construction industry in Hawaii. As directed in the concurrent resolution, the task force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this Act is to implement one of the task force's proposals.

Accordingly, the purpose of this Act is to establish a refundable state income tax credit that mirrors the federal income tax credit but limits the tax credit to qualified taxpayers that purchase a qualified principal residence on or after April 1, 2010, and before January 1, 2012.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235-   **Ohana residential housing income tax credit.** (a) There shall be allowed to each qualified taxpayer subject to the tax imposed by this chapter an ohana residential housing income tax credit which 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.

(b) For purposes of this section:

"Newly constructed principal residence" means a dwelling or residential unit that did not previously exist and that will result in a new structure that will be built from the ground up.

A newly constructed principal residence includes a single-family home, duplex, condominium, manufactured home, or townhouse.

"Principal residence" means an individual's principal residence located in the State where the individual lives for more than two hundred seventy calendar days per calendar year.

"Purchase price" means all direct and indirect costs associated with building a newly constructed principal residence, excluding land acquisition costs and escrow closing costs.

"Qualified principal residence" means a principal residence that is a newly constructed principal residence, whether detached or attached, that adheres to all of the following:

(1) Received a certificate of completion on or after April 1, 2010;

(2) Used by the taxpayer as the taxpayer's principal residence for the immediately following two years; and

(3) A principal residence that is eligible for the homeowner's exemption.

"Qualified taxpayer" means an individual that signs a binding contract to purchase a qualified principal residence on or after April 1, 2010, and before January 1, 2012; provided that the individual closes on the purchase of the individual's newly constructed principal residence on or after April 1, 2010, and before March 1, 2012.

(c) The amount of the tax credit shall be equal to the lesser of:

(1) Two per cent of the purchase price of the qualified principal residence; or

(2) $6,000;

provided that the tax credit shall be payable in two equal installments over two consecutive taxable years beginning with the taxable year in which the binding contract to purchase the qualified principal residence is signed; provided further that if more than one qualified taxpayer is claiming the tax credit under this section, then the applicable tax credit shall be divided equally between each qualified taxpayer. For purposes of this paragraph a married couple is considered to be one qualified taxpayer.

(d) If the tax credit under this section exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit under this section shall be made for amounts less than $1. All claims for a tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the tax credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

(e) The tax credit under this section is limited to qualified principal residences with a purchase price of $625,000 or less.

(f) Each qualified taxpayer that is taking title to the qualified principal residence shall meet the following adjusted gross income limitations in order for any of the taxpayers that are taking title to the qualified principal residence to be eligible to claim the tax credit under this section:

(1) An individual with adjusted gross income of $75,000 or less;

(2) A married couple with adjusted gross income of $150,000 or less; or

(3) A grantor of any trust with adjusted gross income of $75,000 or less.

(g) If a qualified taxpayer sells or no longer uses the qualified principal residence as the taxpayer's principal residence within seven hundred thirty days after closing on the qualified principal residence, then the taxpayer shall be subject to recapture on the previously claimed credit under this section on a pro-rata dollar-for-dollar basis.

(h) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for the tax credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2009.

INTRODUCED BY: ______________________

By Request

S.B. NO. 2638

Report Title:
Construction Task Force; Tax Credit; Ohana Residential Housing; New Construction

Description:
Establishes a refundable ohana residential housing income tax credit for qualified taxpayers that purchase a qualified principal residence on or after April 1, 2010, and before January 1, 2012, that is payable to the qualified taxpayer in two equal installments over the immediately following two taxable years.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.