

HB2381 HD2



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

Testimony of
Linda L. Smith
Senior Policy Advisor to the Governor

Before the
SENATE COMMITTEE ON EDUCATION AND HOUSING
Monday, March 8, 2010, 1:15 p.m.
Room 225, State Capitol

HB2381 HD2 RELATING TO TAXATION

Chair Sakamoto, Vice Chair Kidani, and Members of the Committees:

The Office of the Governor **requests that HB2381 be amended** to replace this measure with language from SB2712, an Administration measure establishing the Hotel Construction and Renovation Tax Credit. HB2681 provides an unspecified amount in nonrefundable tax credits for the construction and renovation of residential real property during an unspecified time period. Because the construction industry has been hit especially hard during this downturn, we believe a construction and renovation tax credit is necessary to stimulate the economy. However, we believe a hotel construction and renovation tax credit will stimulate the economy more than a residential construction and renovation tax credit since concentrated construction and renovation activity from big projects is more likely to have greater economic impact than small residential projects.

HB2381 establishes a nonrefundable income tax credit, applicable to costs incurred in the construction or renovation of residential properties during an unspecified time period. This tax credit has an unspecified cap for costs per residential unit, but does not include an aggregate cap for the total amount of income tax credits provided, which is necessary to control cost impacts to the state budget. Unlike a hotel

construction and renovation tax credit, which requires substantial investment in construction and renovation for credit claims, this residential construction and renovation tax credit allows credit claims for “any costs incurred...for plans, design, construction, and equipment that is permanently affixed to the building or structure.” Arguably, credits can be claimed by homeowners for replacing curtain rods, door knobs, or other fixtures, but they would not necessarily increase construction activity or create jobs.

Although some have argued that a hotel construction and renovation tax credit is ineffective because there is no financing for hotel construction, there are in fact signs of a rebound. Currently, Summit Capital is making \$380 million in commercial mortgage-backed securities (CMBS) available for commercial and hotel properties. According to HotelNewsNow.com, Summit Capital's President John Stueber said, "We believe this is the first capital of its kind to come out. This move signals the new beginning of CMBS in regards to the hotel real estate sector... At this stage of the game, the hotel industry needs a lender who is willing to move the ball." We also note that a similar tax credit was recommended in a 2010 report by the Construction Industry Task Force, which the Legislature established pursuant to SCR 132 (2009) for the purpose of developing and proposing actions to create new jobs in the construction industry.

As a result, we respectfully request the committee to consider amending this measure by replacing it with language from SB2712. SB2712 will provide up to \$500 million in construction activity at a cost of \$50 million per year, or up to \$1.5 billion in construction activity for the three year period of the tax credit. It is estimated by the Department of Business, Economic Development, and Tourism that this tax credit will result in the creation of a maximum of 23,000 jobs and the collection of \$74 million in additional tax revenues between 2010 and 2012. The Hotel Construction and Renovation Tax Credit will provide a short-term incentive to move ahead hotel construction and renovation projects that were stalled or are already planned, but would otherwise only begin construction after the economy rebounds.

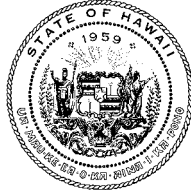
Additionally, SB2712 also provides safeguards designed to maximize construction activity while minimizing the cost of the tax credit to the State:

- 1) SB2712 provides a non-refundable tax credit for hotel and resort construction occurring from January 1, 2010 to December 31, 2012, and places a cap of \$50 million on the amount that the Department of Taxation can award per year;
- 2) The tax credit sets a floor of \$10 million and a cap of \$100 million for qualifying costs per project, which ensures that substantial construction activity will occur with the capacity to create a critical mass of new jobs;
- 3) The tax credit limits qualifying construction and renovation costs to only include labor, material, and supply costs incurred in Hawaii, but do not include design, planning, or permitting costs. This provision ensures that the tax credit only incentivizes immediate construction activity, which must occur between 2010 and 2012; and
- 4) The tax credit cannot be taken for construction and renovation costs financed through government grants or loans, since such construction has already been incentivized by the government through other means.

The Hotel Construction and Renovation Tax Credit will help to revitalize the construction industry in the key sector of hotel and resort development while providing long-term enhancements to visitor accommodations in the State. As such, the Office of the Governor respectfully recommends that HB2381 HD2 be amended with language from SB2712.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

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

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**SENATE COMMITTEE ON EDUCATION & HOUSING
TESTIMONY REGARDING HB 2381 HD 2
RELATING TO TAXATION**

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

DATE: MARCH 8, 2010

TIME: 1:15PM

ROOM: 225

This measure provides an undetermined nonrefundable income tax credit for residential construction or remodeling projects.

The Department of Taxation (Department) **prefers the Administration measure HB 2559.**

SUPPORT FOR JOBS AND THE CONSTRUCTION INDUSTRY—The Department strongly supports efforts to stimulate the economy through incentives. This measure targets tax incentives at the construction industry, which is a large segment of Hawaii's economy. With many construction workers and suppliers impacted by the economic downturn, this measure will encourage taxpayers to invest in their homes and put people back to work.

PREFER ADMINISTRATION MEASURE—The Department prefers HB 2559, which provides for a 10% nonrefundable credit for construction or remodeling of hotel properties. This measure provides an additional incentive above and beyond a mere return of general excise taxes. HB 2559 also applies to commercial properties, which may be in a better position to deploy capital in the current economy than individual homeowners. The Administration measure is also immediate and has a 2012 end-date. The \$50 million aggregate cap in credits also allows for budget certainty.

REVENUE LOSS—This measure will result in a revenue loss of an indeterminate amount because the credit amounts and caps are blank.



94-487 Akoki Street
Waipahu, Hawaii 96797

Senator Norman Sakamoto, Chair
Committee on Education and Housing
State Capitol, Room 225
Honolulu, HI 96813

RE: HB 2381, HD2 "Relating to Taxation"

Chair Sakamoto and Members of the Committee on Education and Housing:

I am Karen Nakamura, Executive Vice President and Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii strongly supports the passage of HB2381, HD2 "Relating to Taxation" that provides a temporary tax credit for residential construction and remodeling projects. This bill will meaningfully assist current and prospective homeowners in making their decisions to buy or remodel their homes. While this bill may not be the total solution to getting our industry on the road to recovery, it is a great start. All segments of the construction industry would benefit from the passage of this bill.

We request passage of this bill.

Thank you for the opportunity to share our views with you.

A handwritten signature in black ink that reads "Karen I. Nakamura". The signature is written in a cursive, flowing style.

Executive Vice President/CEO

BIA-Hawaii



Testimony of:
C. Mike Kido, External Affairs
The Pacific Resource Partnership

Before the Committee on Education and Housing

Monday, March 8, 2010
Conference Room 308
1:15 p.m.

Aloha Chair Sakamoto, Vice Chair Kidani, and members of the Committee on Education and Housing:

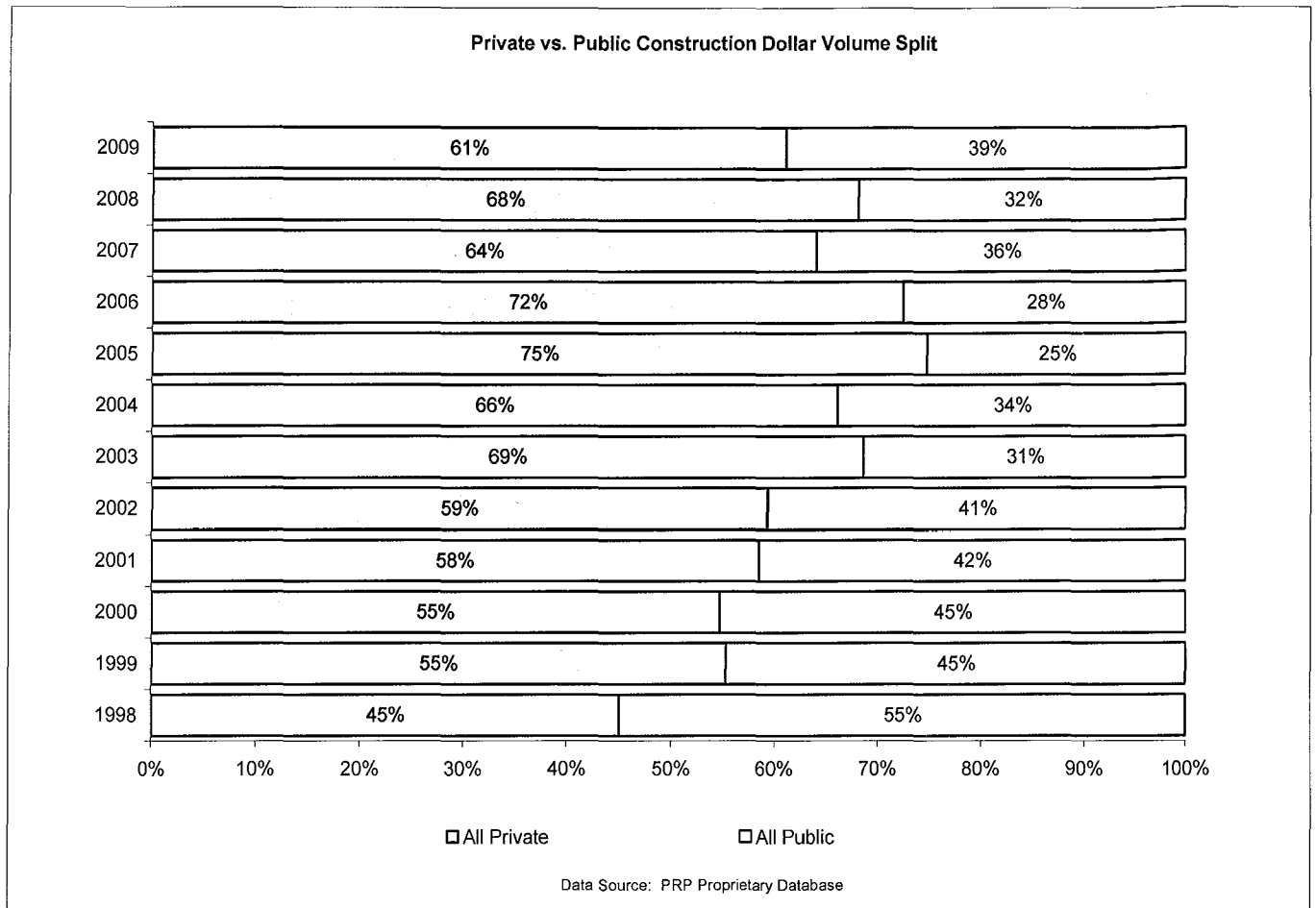
The Pacific Resource Partnership (PRP) is a joint partnership of the Hawaii Carpenters Union and their 240 signatory contractors. Our goal is to provide economic growth and jobs for our contractors and members of the Hawaii Carpenters Union.

PRP is in strong support of **HB2381 HD2 – Relating to Taxation - Provides a temporary tax credit for residential construction and remodeling projects. Effective July 1, 2020.** On February 8, PRP provided testimony in support of HB2349-Relating to Taxation, which was a Construction Industry Task Force bill, a Hotel/Timeshare Construction and Remodeling Tax Credit recommendation.

As stated in SCR132 Construction Industry Task Force report:

The effects of the September 11, 2001 terrorist attacks upon the U.S. had a devastating effect on Hawaii's economy. October, 2001 the legislature met in special session to approve emergency measures in response to the attacks. One response was the enactment of Act 10, Third Special Session Laws of Hawaii 2001, which increased the rate of the existing hotel construction and remodeling tax credit. Act 10 altered the tax credit from a 4% refundable tax credit to a 10% nonrefundable credit for costs incurred prior to July 1, 2003, to assist the tourism industry in its efforts to attract more visitors to Hawaii. Act 10 provided the stimulus needed to boost Hawaii's workforce and economy during the difficult economic times.

Hawaii needs a boost in the construction industry to help improve its economy. As the attached chart illustrates, the annual Private/Public construction dollar volume are divided. In 2009 the annual volume was \$2.4 B -- \$1.5 B (61%) in Private construction and \$940 M (39%) in Public construction. For the past several years, the private sector has declined from a 75% private/25% public split since 2005. So, although the private side has been in decline for a couple of years now and the public sector has been close to the only game in town, private construction still makes up nearly two-thirds of the construction industry -- a very significant chunk.



Hawaii is again facing hard times and we are in an economic recession. We need to create ways to stimulate the economy that will produce job creation and bolster Hawaii's faltering construction industry.

PRP respectfully asks that this legislative proposal be given full consideration in the course of your legislative deliberations.

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

March 8, 2010

Testimony To: Senate Committee on Education and Housing
Senator Norman Sakamoto, Chair

Presented By: Tim Lyons
President

Subject: H.B 2381, HD 2 – RELATING TO TAXATION

Chair Sakamoto and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we support this bill.

The Subcontractors Association of Hawaii is composed of the following nine separate and distinct subcontracting organizations which include:

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

We support this bill.

We support this bill because we know that taxpayers are particularly excited anytime they can get a tax credit instead of paying the government; they are taking a credit for themselves. We all know that this kind of credit will help spur economic activity and employment.

Our only suggestion for an amendment is that you include in the bill a proviso that the taxpayer for residential construction and remodeling must have used a licensed contractor as specified under Chapter 444 HRS. We don't think it would be proper to reward taxpayers that use illegal, unlicensed contractors to get their tax credit. Additionally, since licensed contractors must show a tax clearance in order to prove that they paid all their taxes, we think it is particularly appropriate that the tax credit should only apply if homeowners use licensed contractors.

Based on the above and with that amendment, we support this bill and thank you for your consideration.



Via: EDHTestimony@Capitol.hawaii.gov

March 8, 2010

Support of HB 2381, HD2 Relating to Taxation
(Provides a tax credit for residential construction and remodeling projects)

Senate Education and Housing Committee
Monday March 8, 2010 at 1:15 p.m. in CR 225

Honorable Chair Norman Sakamoto, Vice Chair Michelle Kidani and Members of the Senate Committee on Education and Housing:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF is in **support of HB 2381, HD2** which will provide a temporary tax credit for residential and remodeling projects. This bill will provide much-needed affordable and market housing and will benefit the construction industry as well as the overall economy.

HB 2381, HD2. The purpose of this bill is to increase construction jobs and stimulate the economy by establishing a Residential Construction and Remodeling Tax Credit equal to an unspecified percent of the cost of residential construction or remodeling, capped at an unspecified amount and limited to construction costs incurred before an unspecified date.

HB 2381, HD2 would add a new section to Chapter 235 of the Hawaii Revised Statutes extending a residential construction and remodeling tax credit to homeowners. As defined, construction or remodeling cost means any costs for plans, design, construction, and equipment that is permanently affixed to the building or structure related to new construction, alternations, or modification to a residential apartment unit or house.

BACKGROUND. The lack of affordable housing remains a significant problem affecting Hawaii. Finding ways to provide sufficient affordable housing and market housing for Hawaii's residents has been a major objective for our elected officials, and

state and county agencies, and members of the housing industry and business community.

For the past two years, LURF has participated in a statewide task force comprised of representatives from all four counties, business, labor, developers, architects, nonprofit providers of services, the State, and the legislature, whose purpose was to identify, address and propose regulatory reform and solutions to remove the barriers to the production of affordable housing. The Task Force made a number of legislative recommendations which would assist in increasing the amount of state-wide affordable housing units,

In addition to providing much-needed affordable and market housing, HB 2381, HD2 will not only stimulate the economy but assist in getting people back to work. This measure will increase construction jobs and in turn bring relief to the State's unemployment resources. Hawaii is in an economic recession. Economic stimulus and other initiatives are needed to counteract the negative impact that the world's economy has had on our state. LURF agrees that a generous tax credit is an excellent means to boost Hawaii's tourism and construction industries.

According to recent economic forecasts by the First Hawaiian Bank and the University of Hawaii Economic Research Organization, the construction industry will continue to be impacted for some time before a gradual recovery ensues.

The effects of the September 11, 2001 terrorist attacks upon the United States had a devastating effect on Hawaii's economy. In October 2001, the legislature met in special session to approve emergency measures in response to the attacks. One such response was the enactment of Act 10, Third Special Session Laws of Hawaii 2001, which enhanced the then-existing hotel construction and remodeling tax credit. Act 10 raised the tax credit from four to ten per cent for costs incurred prior to July 1, 2003 to assist the tourism industry in its efforts to attract more visitors to Hawaii. Act 10 provided the stimulus needed to boost Hawaii's workforce and economy during difficult economic times.

Last session, Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Construction Industry 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. This bill implements one of the Task Force's proposals and incentivizes new residential construction and remodeling projects.

LURF's Position. LURF supports the purpose of this bill, which is to create a construction and renovation tax credit for residential construction and remodeling projects and to stimulate the construction industry and create jobs in Hawaii. This bill would provide much-needed affordable housing and benefit the construction industry as well as the overall economy.

The implementation of HB 2381 HD2 is necessary and warranted.

Thank you for the opportunity to express our **support to HB 2381 HD2.**



Testimony of
Carol Reimann
Executive Director
Maui Hotel & Lodging Association
on
HB2381 HD2
Residential Construction and Remodeling Tax Credit bill

COMMITTEE ON EDUCATION AND HOUSING

Monday, March 8, 2010, 1:15pm

Room 225

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes approximately 120 property and allied business members – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 10,000 Maui County residents.

MHLA supports HB2381 HD2 and requests that the bill be amended to include the language in HB2681 HD1 (Hotel Construction and Renovation Tax Credit Bill). This amendment would expand the scope of the proposed tax credit to encompass the economic engine of Hawaii.

The amended language to include hotel construction and renovations would boost a struggling economy as the construction and visitor sectors have been hit especially hard during the downturn. We believe that this tax credit would have the capacity to significantly stimulate the economy by targeting these key economic industries, while upgrading our visitor industry infrastructure. This tax credit would also provide incentive to spur hotel construction and renovation projects that were stalled or are already in the planning process, but would otherwise only begin after the economy rebounds.

MHLA urges you to amend HB2381 HD2 to include language in HB2681 HD1 to include hotel construction and renovation projects.

Thank you for the opportunity to testify.

sakamoto2 - Erin

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 06, 2010 9:53 AM
To: EDH Testimony
Cc: gm@napilikai.com
Subject: Testimony for HB2381 on 3/8/2010 1:15:00 PM

Testimony for EDH 3/8/2010 1:15:00 PM HB2381

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Gregg Nelson
Organization: Napili Kai Beach Resort
Address: 5900 Honoapiilani Rd. Lahaina, Maui, Hi.
Phone: 808-669-9500
E-mail: gm@napilikai.com
Submitted on: 3/6/2010

Comments:

Dear Committee Members,

I am general manager of a small resort on Maui. I am hopeful you will give serious consideration to amending HB2381 HD2 to include the language of HB2681 HD1 which includes hotel construction and renovations for the tax credit. Though my resort has fallen upon hard economic times, it is imperative that we continue to improve our product by renovating. With limited financial resources available for our renovations over the next few years, a tax credit option might make the difference in our decision to proceed with the renovations. Your consideration is appreciated.

sakamoto2 - Erin

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 08, 2010 8:49 AM
To: EDH Testimony
Cc: rick.tanner@kaanapaliwhaler.com
Subject: Testimony for HB2381 on 3/8/2010 1:15:00 PM

Testimony for EDH 3/8/2010 1:15:00 PM HB2381

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Rick Tanner
Organization: The Whaler On Kaanapali Beach
Address: 2481 Kaanapali PKWY Lahaina
Phone: 808-661-6997
E-mail: rick.tanner@kaanapaliwhaler.com
Submitted on: 3/8/2010

Comments:

This measure may make the difference in moving forward with our proposed 10 million + exterior renovation project.

From: Mark Mrantz [Mark.Mrantz@astonhotels.com]
Sent: Monday, March 08, 2010 8:27 AM
To: EDH Testimony
Subject: HB 2381, HD2

Aloha!

I write to you today to ask that you support HB2381 HD2 and request that the bill be amended to include the language in

HB2681 HD1 (Hotel Construction and Renovation Tax Credit Bill). This amendment would expand

the scope of the proposed tax credit to encompass the economic engine of Hawaii (Visitor Industry).

The amended language to include hotel construction and renovations would boost a struggling

economy as the construction and visitor sectors have been hit especially hard during the downturn. We

believe that this tax credit would have the capacity to significantly stimulate the economy by targeting

these key economic industries, while upgrading our visitor industry infrastructure, which will also serve to shore up our tax base longer term.

Please amend HB2381 HD2 to include language in HB2681 HD1 to include hotel construction and renovation projects.

Mahalo for your consideration.

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TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

REVISED

SUBJECT: INCOME, Residential construction and remodeling tax credit

BILL NUMBER: HB 2381, HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers who own residential real property to claim a residential construction and remodeling tax credit of ___% of the construction or renovation costs incurred during a taxable year; provided that the costs do not exceed \$_____ in the aggregate for each residential unit and the costs are incurred before July 1, _____.

A husband and wife filing separately, or multiple owners of a property filing separately, may apportion the credit among themselves; provided the credit may be claimed only once for a single residential property. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for that portion of the construction or remodeling cost for which the deduction is taken.

Credits in excess of tax liability shall be applied to tax liability in subsequent years until exhausted. Requires all claims for the credit to be filed before the end of the twelfth month following the tax year. The director of taxation shall prepare forms as may be necessary to claim the credit and may adopt rules pursuant to chapter 91.

Defines “construction or remodeling cost” and “net income tax liability” for purposes of the measure.

EFFECTIVE DATE: July 1, 2020 applicable to tax years beginning after December 31, 2009

STAFF COMMENTS: The legislature by Act 10, Third Special Session of 2001, established a nonrefundable tax credit equal to 4% of residential construction and remodeling costs up to \$250,000 to spur private sector construction activity. Since the credit was scheduled to expire on July 1, 2002, the legislature by Act 174, SLH 2002, extended the credit to July 1, 2003. This measure proposes to resurrect a similar credit.

Although some may claim that the previous tax credit incentive “jump started” construction activity especially in the wake of 9/11, looking back, there is general agreement that the tax credit created artificial dislocations in the economy, creating demand that exceeded the industry’s ability to respond, sending labor and material costs beyond reasonable limits. The result is that in the years following the termination of the credit, the cost of construction exceeded reason. As a result, when the credit crisis occurred, the cost of construction was so high that there was insufficient latitude in the availability of credit to meet the demand. Thus, construction activity came to a screeching that is now being experienced. Instead of the spike that the tax credit created, recovery in the construction industry should

have been stimulated with public works projects that allowed government to take advantage of a skilled workforce available at reasonable rates. It would have allowed recovery with moderation. As many homeowners rushed to take advantage of the last tax credit boom, they found that workers became scarce and the added cost was only mitigated by the tax credit. Thus, care should be exercised in jumping on this bandwagon again.

It should be remembered that the tax system is an inefficient means to accomplish this goal as the proposed measure would grant a credit regardless of a taxpayer's need for tax relief. This would merely result in a subsidy by government and plunge the state further into the red financially. While the adoption of this measure may alleviate some of the costs to entice homeowners to renovate their homes, it comes at a price to the state who is asked to provide public services with what little resources are available. The state cannot afford the enactment of this measure which will put it further in debt.

That said, this measure, by comparison to other measures that would also extend a tax credit for the construction or renovation of hotel facilities, is probably much more feasible due in large part to the condition of the credit markets. Trying to raise tens of millions of dollars in the current environment would be almost impossible. On the other hand, most owners who have any equity in their homes probably can access a line of credit sufficient to undertake some sort of modest repairs or renovations. Given that this tax credit is a nonrefundable, the impact would only affect taxes that would have otherwise been paid. While both the amount of expenditures and the rate of the tax credit are unspecified in HD-2, consideration should be given to setting the rate of tax credit to not more than 4.5% in Honolulu and 4% on the Neighbor Islands. At least there will some rationale for the rate of credit as it would mirror the general excise tax rates imposed in the respective counties. That will also then help lawmakers to determine just how much in expenditures will qualify for the credit based on the utilization of the last home renovation credit.

Digested 3/5/10