SB2605

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SENATE COMMITTEE ON EDUCATION AND HOUSING
TESTIMONY REGARDING SB 2605
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 10, 2010
TIME: 1:20 PM
ROOM: 225

This measure provides a temporary tax credit in an unstated amount for the costs incurred in residential construction and remodeling projects.

The Department of Taxation (Department) **opposes** this measure because it is **outside the budget priorities this legislative session**.

Notwithstanding the merit of this measure, the Department cannot support the tax impacts in this measure because these tax breaks are not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

The Department simply cannot support this tax incentive given the other competing priorities for general fund revenues.

In addition, the Department has the following specific comments on this measure:

1. The credit is allowable only to individuals who own real property, thereby excluding lessees of real property as well as developers of real property. In addition, the measure also excludes partnerships, corporations, estates, trusts, and associations of apartment owners from being eligible for the credit.

2. The measure does not provide a ceiling for expenditures subject to the credit.

3. The measure requires that the taxpayer be in compliance with all federal, state, and county statutes, rules, and regulations. The Department is unable to verify that a taxpayer is in compliance with such a broad array of laws.

SAH - Subcontractors Association of Hawaii

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February 10, 2010

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

Presented By: Tim Lyons
President

Subject: S.B 2605 – 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.

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February 9, 2010

The Honorable Norman Sakamoto, Chair
Senate Committee on Education and Housing
State Capitol, Room 225
Honolulu, Hawaii 96813

RE: S.B. 2605 Relating to Taxation

HEARING: Wednesday, February 10, 2010 at 1:20 p.m.

Aloha Chair Sakamoto, Vice Chair Kidani and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai‘i Association of REALTORS® (“HAR”), the voice of real estate in Hawai‘i, and its 8,800 members in Hawai‘i. HAR **supports** H.B. 2605, which provides for a temporary tax credit on residential construction and remodeling projects.

This measure provides for a tax credit for Hawai‘i homeowners for 4% of the residential construction or remodeling costs during the taxable year in which the credit is claimed. This tax credit applies to expenses incurred for plans, design, construction, and equipment that are permanently affixed to the building or structure related to new construction, alterations, or modifications to a residential apartment unit or home.

HAR believes that this measure will provide overall value by encouraging homeowners to make improvements to their homes. Also, the credit will be beneficial to the extent that it will stimulate projects that improve energy efficiency and cost savings. Finally, this measure will be beneficial by creating new work for the construction industry.

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.

SUBJECT: INCOME, Residential construction and remodeling tax credit

BILL NUMBER: SB 2605; HB 2381 (Identical)

INTRODUCED BY: SB by Baker; HB by Har, Aquino, Chang, Hanohano, Herkes, Ito, Karamatsu, Manahan, McKelvey, Takumi, Tsuji, Yamane and 9 Democrats

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 4% 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: 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.

Digested 1/27/10