DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
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
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WAYS AND MEANS
March 23, 2016 at 9:15 a.m.
State Capitol, Room 211

In consideration of
H.B. 1527, H.D. 1
RELATING TO TAXATION.

The HHFDC ***opposes*** H.B. 1527, H.D. 1, to the extent that it impacts the State Low-Income Housing Tax Credit (LIHTC) per section 241-4.7, Hawaii Revised Statutes (HAR), and the General Excise Tax exemption for certified or approved housing projects established under section 237-29, HRS, because it could have an adverse effect upon the development of affordable rental housing.

The LIHTC program is a major financing tool to construct or rehabilitate affordable rental housing for families at or below 60 percent of the area median income. Under the program, HHFDC awards federal and state tax credits that may be used to obtain a dollar-for-dollar offset (tax credit) in income tax liability for 10 years or may be syndicated to generate project equity. The annual per capita limit for 2015 is $2.30, translating to $3,264,990 in Federal LIHTCs and $1,632,495 in State LIHTCs that the State can allocate in 2015. Since the program's inception, 113 projects totaling 9,748 affordable units, have been awarded LIHTCs for the development or preservation of affordable rental housing statewide.

Section 241-4.7, HRS, which is referenced in section 3(41) of H.B. 1527, allows financial institutions to invest in State LIHTCs. Uncertainty that the LIHTC may be repealed after 2019 may chill the market for LIHTCs in the short term, and thereby stall affordable rental housing development and construction.

The General Excise Tax (GET) exemption program for certified housing projects is a valuable tool that makes affordable housing development and rental housing operations economically feasible. Repeal of this exemption would increase the cost of affordable housing development and construction by 4 to 4.5 percent. Repeal would also adversely affect the cash flow and economic feasibility of affordable rental projects, including existing rental projects previously certified for the exemption.

Affordable rental housing development is a lengthy and complicated process that even under ideal circumstances involves significant economic risk. Even the potential threat of repeal of these important financing tools as proposed in this bill could have a chilling effect on planning and development of much-needed new affordable rental projects. Accordingly, we respectfully request that the reference to the GET exemption in section 3(31) and the reference to the State LIHTC in section 3(41) of H.B. 1527, H.D. 1, be deleted.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR

SHANTSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, March 23, 2016
Time: 9:15 A.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. No. 1527, H.D. 1, Relating to Taxation.

The Department of Taxation (Department) appreciates the intent of the H.B. 1527, H.D. 1, but is not able to comply with the all of the requirements set forth in this measure.

H.B. 1527, H.D. 1, requires the Department to conduct an evaluation on (1) certain income tax credits, and certain exemptions from the general excise tax (GET) and public service company (PUC) tax; (2) all income tax credits, and exemptions from the GET and PUC tax enacted during and since the regular session of 2016; and (3) whether certain tax incentives should be repealed. The evaluation must include: (1) the intended objective of each tax credits; (2) the economic effects of each tax credit; (3) whether the economic effects achieved by the tax credit, if any, meet the intended objectives of the tax credit; (4) the amount of credit taken by fiscal year on a cash basis; and (5) whether projections made on enactment of the tax credit were achieved.

The Department must report its findings to the Legislature and provide sufficient information to allow the Legislature to determine whether the credits and exemptions are achieving its intended objectives, consistent with public policies, and whether the credits and exemptions should be continued, modified, or repealed. If the Department recommends that a credit or exemption be modified, it must provide proposed draft legislation with such recommended modifications. The first report is due twenty days prior to the convening of the Regular Session of 2018, and every five years thereafter. The measure has a defective effective date of July 1, 2030.

The Department does not have the personnel or resources necessary to meet the broad scope and all of the requirements of this measure. A review and analysis of the components of the tax structure has traditionally been addressed by the Tax Review Commission (TRC) due to the extensive amount of work involved. Therefore, the Department recommends that the studies set forth in this measure be considered for study by the TRC, similar to Senate Concurrent Resolution No. 58 and Senate Resolution No. 30.

The Department, however, is able to provide limited administrative support to the TRC. Over the last few years, the Department has been able to produce reports which address some of the tax collection data required under this measure. The Tax Credits Claimed by Hawaii Taxpayers Report for Tax Years 2011, 2012, and 2013, contain all costs of state income tax incentives for tax years 2011, 2012, and 2013; these reports have been produced by the Department's Tax Research and Planning Office.

The Department is also able to provide data related to the amount of income tax credits taken by fiscal year on a cash basis, but notes that the data will fluctuate greatly from year to year, due to inconsistent tax return filing dates from year to year, which could result in the credits being paid in the next fiscal year (as opposed to the current fiscal year). Therefore, the Department suggests using tax year data, instead of fiscal year data.

Finally, the Department believes that it will be able to produce a report on GET exemptions and deductions, as required by Act 94, SLH 2015, as the processing of the GET is scheduled to transition to the new GenTax software around mid-August 2016.

Thank you for the opportunity to provide comments.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, PUBLIC SERVICE COMPANY, FRANCHISE, LIQUOR, Periodic Review of Exemptions and Credits

BILL NUMBER: HB 1527, HD-1

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: This bill would require the Department of Taxation to periodically review exemptions and credits now provided under various tax chapters. This type of review, however, should already be within the purview of the Tax Review Commission that is provided for in our constitution and is supposed to be appointed this year (given that it wasn't appointed last year when it was supposed to happen).

BRIEF SUMMARY: Adds a new section to HRS chapter 231 that requires the department of taxation to perform an evaluation of all newly enacted tax credits or tax exemptions in title 14, HRS. Requires a report to the legislature after the evaluation has been completed.

Also requires the department to recommend to the legislature whether to sunset on December 31, 2019, a list of 43 existing exemptions and credits.

The evaluation of the credits is to include these criteria:

(1) The intended objective of each tax credit;

(2) The economic effects of each tax credit;

(3) Whether the economic effects achieved by the tax credit, if any, meet the intended objective of the tax credit;

(4) The amount of credit taken by fiscal year on a cash basis; and

(5) Whether projections made on enactment of the tax credit were achieved.

Allows the department of taxation to establish a technical advisory group, which may include the department of labor and industrial relations, department of agriculture, department of commerce and consumer affairs, department of transportation, department of human services, and department of business, economic development, and tourism, to help identify and develop the data elements needed for the analyses; and to collect, process, and analyze data from federal, state, and local government sources.

EFFECTIVE DATE: July 1, 2030.

STAFF COMMENTS: Article VII, Section 3 of the Hawaii Constitution and HRS chapter 232E provide for a tax review commission to be appointed every five years. One was supposed to have been appointed in 2015, but because that didn't happen one is supposed to be appointed this year. One of the statutory objectives of the commission, as set forth in section 232E-3(a), is a review of the State's tax structure, using such standards as equity and efficiency. Exemptions, deductions, and credits directly impact equity because they by definition treat taxpayers differently depending on what the taxpayer does or doesn't do, or the type of income earned or realized by the taxpayer, so it would certainly be appropriate to task the TRC with some or all of the requested reviews.

What the department or the commission is likely to find is that some of the items reviewed are appropriate and are required by the design of the tax system. For example, proposed section 3(a)(19) questions the exemptions in the GET set forth in HRS section 237-24, which include exemptions for wages, alimony, life insurance proceeds, and gifts. Some of these exemptions derive from the structure of the GET as a tax for the privilege of carrying on business, because income such as gifts and wages are generally realized by individuals outside of the business context.

In addition, it should be noted that the Department of Taxation made an initial cut of GET exemptions for which it did not believe review and specific tracking was necessary. This list is in Tax Information Release 2010-05, relating to the General Excise Tax Protection Act (Act 155, SLH 2010). The Legislature may wish to obtain information from the Department as to why this decision was made as to the items set forth in the bill. For example, item 6 on page 3 of the TIR identifies all of the exclusions in HRS section 237-24(1) through (7), some of which were discussed in the previous paragraph.

Digested 3/17/2016

THE HAWAII STATE SENATE
The Twenty-Eighth Legislature
Regular Session of 2016

COMMITTEE ON WAYS AND MEANS
The Honorable Jill M. Tokuda, Chair
The Honorable Donovan Dela Cruz, Vice Chair,

DATE OF HEARING: Wednesday, March 23, 2016
TIME OF HEARING: 9:15 a.m.
PLACE OF HEARING: State Capitol
415 South Beretania Street
Conference Room 211

TESTIMONY IN SUPPORT OF HB1527, HD1 RELATING TO TAXATION

By DAYTON M. NAKANELUA,
State Director of the United Public Workers (UPW),
AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, and AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB 1527, HD1 is a bill that could provide a process to increase revenues while tightening the tax statues and procedures for improved collection of taxes through the evaluation of the tax credits and exemptions. According to the 2012-2013 Hawaii Tax Review Commission, targeted tax credits can be useful in incentivizing economic growth. However, these tax credits according to the TRC should depend upon performance and effectiveness through their evaluation.

There is a critical need for a stable source of funding for state government programs especially for education, healthcare, infrastructure, homelessness and senior citizen long-term care programs. Evaluating tax credits and tax exemption to determine their effectiveness in accomplishing their intended purposes is a reasonable course of action to free up funds.

Thank you for the opportunity to submit this testimony in strong support of HB1527, HD1.

CATHOLIC CHARITIES HAWAI'I

TESTIMONY in OPPOSITION to SB 1527, HD1: RELATING TO TAXATION

- **RE: State Low Income Housing Tax Credits, General Excise Tax Exemption on Affordable Housing Projects.**

TO: Senator Jill N. Tokuda, Chair, Senator Donovan Dela Cruz, Vice Chair, and Members, Senate Committee on Ways and Means

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawaii

Hearing: Tuesday, 3/23/16; 9:15 AM; CR 211

Chair Tokuda, Vice Chair Dela Cruz and Members, Committee on Ways and Means:

Thank you for the opportunity to provide written testimony **in Opposition of HB 1527, HD1**, to the extent that it would impact on the State Low-Income Housing Tax Credits and the General Excise Tax exemptions for certified or approved affordable housing projects. I am Betty Lou Larson representing Catholic Charities Hawaii. We are concerned that this bill could have a serious negative impact on the development of affordable rental housing projects.

Catholic Charities Hawai`i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai`i for over 60 years. Our mission is to provide services and advocacy for the most vulnerable in Hawai`i. A priority for advocacy this year is affordable housing and homelessness.

Catholic Charities Hawai'i opposes the above changes which could have severe impacts for developers trying to create more affordable rentals. Affordable housing projects target those for whom the market cannot provide housing. This is a difficult and complex process with many barriers. We need to <u>add</u> tools to the HHFDC package of incentives to promote more affordable rentals, not <u>remove tools that are now effective.</u> The state's LIHTC program provides needed funding for these projects. 9,748 units in 113 projects have been developed utilizing the LIHTCs. In order to keep the rents affordable, resources like the LIHTC are critical in the mix of funding that developers must seek to put a project together and enable it to pencil out. We need to enhance the state LIHTC (as other bills like HB 2744/SB 2833 propose), not remove remove this resource.

The General Excise Tax exemption for certified housing projects is also an essential tool to not only create affordable rentals, but to sustain them for long term affordability. Repeal of this exemption would cause rents to immediately increase or impact on the cash flow and economic sustainability of these affordable projects. These projects have tight budgets. The loss of the GET exemptions would be felt by the tenants who may be cost-burdened even while living in an affordable rental project.

Thank you for listening to our concerns.

CLARENCE T. C. CHING CAMPUS • 1822 Ke'eaumoku Street, Honolulu, HI 96822
Phone (808)373-0356 • Email: bettylou.larson@catholiccharitieshawaii.org

EAH

A NONPROFIT HOUSING CORPORATION

March 18, 2016

Hearing: HB 1527 HD1
Date: Thursday, March 23, 2016
Time: 9:15 A.M.
Room No. 211

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

TESTIMONY IN OPPOSITION of HB 1527 HD1

Chair Tokuda, Vice Chair Dela Cruz and members of the committee:

Thank you for this opportunity to submit testimony in **Strong Opposition** of HB 1527 HD1.

I am Kevin Carney, Vice President of EAH Housing. EAH is a 48 year old non-profit public benefit corporation whose mission is to develop, manage and promote affordable rental housing. We are one of the largest non-profit affordable rental housing developers in the western United States. We have developed over 95 affordable rental properties, manage over 100 properties and we serve over 20,000 residents in communities in Northern California and Hawaii. The people we serve are primarily those with incomes at or below 60% of the area median income (AMI).

EAH agrees with the testimony opposing this bill submitted by the Hawaii Housing Finance and Development Corporation (HHFDC). The impacts on the State Low Income Housing Tax Credit (LIHTC) Section 241-4.7, HRS, and the General Excise Tax exemption (Section 237-29, HRS) applicable to the development, financing, operation and preservation of low income rental properties could be devastating.

The potential elimination of financial institutions from investing in State LIHTCs as referenced in section 3(41) of HB 1527 means that banks like American Savings & Loan, Bank of Hawaii, and Central Pacific Bank, all of which we have worked with, would no longer be able to partner with us in producing affordable rental apartments. We expect the value of the State LIHTCs would decline with this elimination. A reduction in the number of potential state credit buyers, which is already a thin marketplace, places more power with the buyers in determining the price of the credit. This potential reduction in equity from the sale of the credits means we would have to turn to other sources of funding such as the RHRF and the HOME program to make up the difference.

Repealing the General Excise Tax (GET) exemption that we are currently eligible for on our existing projects as it applies to rent and to the development of new projects and rehabilitation of existing inventory would be also be devastating to our industry. Our rents are determined by HUD so we cannot raise them, nor would we want to, to make up the impact on our cash flow. Eliminating this exemption is going to increase the cost of construction and the cost of operations on a housing product that is desperately needed in our communities.

In 2011 the State Legislature acknowledged that we have a housing crisis. The staff at EAH Housing lives the meaning of this crisis every day when we have to turn away applicants because our 1,954 apartment homes are full and we have long waiting lists. We believe the legislature's energy should be focused on how to produce more affordable housing by making more state land available for development, increasing funding to the Rental Housing Revolving Fund (RHRF), the Dwelling Unit Revolving Fund (DURF) and removing barriers and roadblocks to development thereby providing for a more reliable and faster production of housing.

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EAH Housing requests your committee's support in helping us to produce, preserve and more efficiently operate our low income rental properties by removing the reference to the GET exemption in section 3(31) and the reference to the State LIHTC in section 3(41) of HB 1527 HD1. Thank you.

Sincerely,

Kevin R. Carney, (PB), NAHP-E
Vice President, Hawaii

Hawai‘i Association of REALTORS®
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808-733-7060
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1259 A‘ala Street, Suite 300
Honolulu, HI 96817

March 23, 2016

The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: H.B. 1527, H.D.1, Relating to Taxation

HEARING: Tuesday, February 23, 2016 at 2:00 p.m.

Aloha Chair Luke, Vice-Chair Nishimoto, 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. HAR **opposes** H.B. 1527, H.D.1 which requires the Department of Taxation to evaluate and recommend the repeal of certain tax credits and tax exemptions and report to the Legislature before the regular session of 2018. Beginning July 1, 2018, and every five years thereafter, requires the Department of Taxation to evaluate new tax credits and exemptions.

HAR is opposed to this measure to the extent that it impacts:

1. Association membership dues to the General Excise Tax under HRS §237-23(a)(5): "business leagues, chambers of commerce, boards of trade;" and
2. State Low-Income Housing Tax Credit (LIHTC) per section §241-4.7, Hawaii Revised Statutes (HAR), and the General Excise Tax exemption for certified or approved housing projects established under section §237-29, HRS.

Like many organizations, we are primarily a dues-dependent organization -- with the increase in taxes and reduced income to the organization, essential services to members may have to be reduced or eliminated. If a tax is imposed on membership dues, it will be passed on to our members, and will ultimately increase the cost of doing business.

With respect to the State Low-Income Housing Tax Credit, a potential threat of repeal of these important financing tools as proposed in this bill could have a chilling effect on planning and development of much-needed new affordable rental projects.

Mahalo for the opportunity to testify in opposition to this measure.