DAVID Y. IGE
GOVERNOR

SHANTSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Wednesday, February 23, 2016
Time: 2:00 P.M.
Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

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

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

H.B. 1527 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GET and PUC tax enacted during and since the regular session of 2016; and (3) whether certain tax incentives should be repealed.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objectives, consistent with public policies, and whether the credits and exemptions should be continued, modified, or repealed.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. This measure, if adopted, will take effect upon its approval and the first report is due twenty days prior to the convening of the Regular Session of 2018, and every five years thereafter.

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 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 Tax Review Commission.

The Department, however, is willing to assist the Tax Review Commission to the extent staffing permits. Over the last few years, the Department has been able to produce reports which address some of the tax collection data required under H.B.1527. 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.

The Department is also able to provide 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, after the GET administration is moved to the new computer system.

Thank you for the opportunity to provide comments.

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

HOUSE COMMITTEE ON FINANCE
February 23, 2016 at 2:00 p.m.
State Capitol, Room 308

In consideration of
H.B. 1527
RELATING TO TAXATION.

The HHFDC ***opposes*** H.B. 1527 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(a)(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(a)(31) and the reference to the State LIHTC in section 3(a)(41) of H.B. 1527 be deleted.

Thank you for the opportunity to testify.

Bernard P. Carvalho, Jr.
Mayor

Nadine K. Nakamura
Managing Director

Gary A. Mackler
Acting Housing Director

KAUA'I COUNTY HOUSING AGENCY
County of Kaua'i, State of Hawai'i
Pi'ikoi Building 4444 Rice Street Suite 330 Līhu'e, Hawai'i 96766
TEL (808) 241-4444 FAX (808) 241-5118

February 22, 2016

The Honorable Representative Sylvia Luke, Chair
and Members of the Committee on Finance
State House of Representatives
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

SUBJECT: TESTIMONY IN OPPOSITION OF HOUSE BILL NO. 1527, RELATING TO TAXATION

Dear Chair Luke and Committee Members:

The County of Kaua'i **opposes** House Bill No. 1527, to the extent it potentially threatens the repeal of critically needed financing resources used for the development of affordable rental housing.

The State Low-Income Housing Tax Credit (LIHTC) program authorized per section 241-4.7, Hawaii Revised Statutes (HRS), and General Excise Tax (GET) exemption for certified or approved housing projects established under section 237-29, are both essential to the County's ability to increase housing inventory for low-income households.

Since 2004, these financing tools have been used to produce 304 new rental units on Kaua'i for families at or below 60 percent of the area median income. As we plan for more rental housing projects that can address the most prevalent housing needs on our island, we will most assuredly need the LIHTC program and GET exemption to finance new affordable rental projects.

Therefore, we respectfully request that the reference to the State LIHTC is section 3(a)(41) and GET exemption in section 3(a)(41) of H.B. 1527 be deleted. Thank you for consideration of our testimony and the opportunity to comment.

Sincerely,

Gary A. Mackler
Acting Housing Director

LAND USE RESEARCH
FOUNDATION OF HAWAII
1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

February 22, 2016

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
House Committee on Finance

Opposition to HB 1527 Relating to Taxation. (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.)

FIN Hearing: Tuesday, February 23, 2016, 2:00 p.m., in Conf. Rm. 308

The Land Use Research Foundation of Hawaii (LURF) is 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.

HB 1527. This bill requires the Department of Taxation (DoTax) 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 DoTax to evaluate new tax credits and exemptions.

LURF's Position: LURF supports the general intent of this bill, however, LURF must **oppose the current form of HB 1527, HD1,** based on the possibility of adverse impacts and unintended negative consequences for the designation and operation of Important Agricultural Lands and the development of affordable housing in the state.

In particular, LURF would respectfully request that this Committee **delete the following sections from HB 1527:**

- Section 235-110.93, Hawaii Revised Statutes (HRS), (Important Agricultural lands qualified agricultural costs tax credits);

- Section 237-29, HRS, (general excise Tax (GET); exemptions for certified or approved housing projects); and

- Section 241-4.7, HRS, (banks and other financial corporations tax; low income housing; income tax credit).

For the reasons stated above, LURF **must oppose the above sections of HB 1527** and respectfully requests that **the above sections be deleted from this measure**, or that this bill be **held** in this Committee.

Thank you for the opportunity to present testimony regarding this measure.

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

INTRODUCED BY: LOWEN, BROWER, ICHIYAMA, ING, JORDAN, KEOHOKALOLE, KOBAYASHI, C. LEE, LOPRESTI, LUKE, MORIKAWA, NAKASHIMA, NISHIMOTO, OHNO, ONISHI, SAIKI, YAMANE, YAMASHITA, Johanson, McKelvey

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: Upon approval.

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 2/19/2016

THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Eighth Legislature
Regular Session of 2016

COMMITTEE ON FINANCE
The Honorable Sylvia J. Luke, Chair
The Honorable Scott Y. Nishimoto, Vice Chair

DATE OF HEARING: February 23, 2016
TIME OF HEARING: 2:00 p.m.
PLACE OF HEARING: State Capitol, 415 South Beretania Street
Conference Room 309

TESTIMONY ON HOUSE BILL 1527 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.

HB1527 is a bill that could provide a process to increase revenues while tightening the tax statutes and procedures for improved collection of taxes through the evaluation of the numerous tax credits and tax exemptions created in law over the years.

There is a critical need for a stable source of funding for state government programs especially in education, healthcare, infrastructure, homelessness and senior citizen long-term care programs. Evaluating tax credits and tax exemptions to determine their effectiveness in accomplishing their intended purpose is a reasonable course of action to free up funds. The UPW strongly supports HB1527 and requests the members of the Finance Committee to pass this important bill.

Thank you for the opportunity to submit this testimony.

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1259 A‘ala Street, Suite 300
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February 23, 2016

The Honorable Sylvia Luke, Chair
House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: H.B. 1527, 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 to the extent that it impacts association membership dues to the General Excise Tax under HRS §237-23(a)(5): “business leagues, chambers of commerce, boards of trade.”

Our organization, like many other trade organizations, is 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.

Although it is not a full repeal as proposed in H.B. 1527, the potential of repeal is possible and may affect our short and long term budgetary and program planning. Accordingly, we respectfully request that the reference to the GET exemption in Section 3(a)(17) be deleted.

Mahalo for the opportunity to testify.

MUTUAL HOUSING
ASSOCIATION OF HAWAI'I "Building our communities with respect, integrity, and aloha…"

Kekaulike Courtyards ◆ Ko'oloa'ula ◆ Lihu'e Court Townhomes ◆ Palolo Homes

February 23, 2016

LATE

The Honorable Sylvia Luke, Chair
and the Members of the House Committee on Finance
Hawai`i State Capitol
415 South Beretania Street; Room 308
Honolulu, Hawai`i 96813

Dear Chair Luke and Committee Members:

Subject: House Bill 1527 - Relating to Taxation

The Mutual Housing Association of Hawai`i, Inc. ("Mutual Housing") opposes certain provisions in House Bill 1527 which would negatively impact the State Low-Income Housing Tax Credit ("LIHTC") per section 241.4.7, Hawaii Revised Statues ("HRS"), and the repeal of General Excise Tax Exemptions for certified or approved housing projects established under section 237-29, HRS.

Mutual Housing is currently building a 188-unit affordable rental project in East Kapolei targeting families earning less than 60% of median incomes. This project would not be possible without funding from the State LIHTC program and the 4.5 percent savings on GE taxes offered by the exemption on GE taxes.

HB 1527 is proposing the repeal of Section 241-4.7, HRS, which allows financial institutions to invest in State LIHTC's. Our State financial institutions have been a major investor of State LIHTC's for the past three decades and critical to the successful development of affordable rental projects over that time span. Developers and owners of affordable rental housing projects also rely on the GET exemption to make their projects financially feasible and to maintain the affordability of their rents for low-income families. The GET exemption for certified affordable housing projects has been in place to assist the economic feasibility in the development of affordable housing projects for decades. It has proven to be a successful incentive for the development and preservation of affordable housing and should be allowed for future affordable housing projects.

Hawaii cannot ignore the affordable housing crisis facing our State. Our families are forced live in substandard conditions and often have to double or triple up with families and friends to make ends meet. We are also seeing our homeless population grow throughout the islands. Please do not put the State LIHTC and GET exemption at risk when these tools are greatly needed at this time and for the foreseeable future. We respectfully ask that you delete the reference to the GET exemption in section 3(a)(31) and the reference to the State LIHTC in section 3(a)(41) of H.B. 1527. Thank you for the opportunity to provide this testimony.

Sincerely,

David M. Nakamura
Executive Director

Pioneer Plaza ◆ 900 Fort Street Mall, Suite 1690, Honolulu, Hawai'i 96813 ◆ Phone: (808) 550-0804 ◆ Fax: (808) 550-0607

NeighborWorks
CHARTERED MEMBER