HB2744 HD1

Measure Title:	RELATING TO HOUSING.
Report Title:	Low-income Housing Tax Credit
Description:	Bases the amount of the tax credit on whether or not a building is financed by tax-exempt bonds. Increases funding for affordable rental housing development by making the State Low-Income Housing Tax Credit more valuable. Reduces State Tax Credit period from ten to five years. (HB2744 HD1)
Companion:	
Package:	None
Current Referral:	HOU, WAM
Introducer(s):	ITO, HASHEM, TOKIOKA, WOODSON, Creagan

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To: The Honorable Breene Harimoto, Chair
and Members of the Senate Committee on Housing

Date: Tuesday, March 15, 2016
Time: 2:50 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 2744, H.D. 1, Relating to Housing.

The Department of Taxation (Department) appreciates the intent of the measure but defers to the Hawaii Housing Finance and Development Corporation (HHFDC) on the merits of this bill, and provides the following comments regarding H.B. 2744, H.D. 1, for your consideration.

H.B. 2744 proposed to amend the low-income housing tax credit by:

- Removing the provisions related to subawards issued under section 1602 of the American Recovery and Reinvestment Act of 2009;
- Clarifying that the allocation of tax credits for pass-through entities;
- Basing the amount of the tax credit on whether or not a building is financed by tax exempt Bonds; and
- Removing reference to Internal Revenue Code (IRC) sections regarding the application of at risk rules and limitation of passive activity losses and credits.

The House Committee on Housing amended the measure by:

- Reinstating language that was to be repealed by this measure, including the provisions related to eligibility and the credit rate for recipients of subawards issued under Section 1602 of the American Recovery and Reinvestment Act of 2009 and the IRC sections regarding at-risk rules and limitation of passive activity losses and credits;
- Removing language that would have qualified any taxpayers owning an interest in a qualified low-income housing building or qualified low-income housing project (whether certified by HHFDC or not) located in the State as eligible to claim a low-income housing tax credit, and removing the language that would have required the tax credits of a partnership, S corporation, estate, or trust to be determined at the entity level; and

- Shortening the period over which the credits are taken from ten years to five years in order to increase the value of the State Low-Income Housing Tax Credits, thereby encouraging investments.

The measure has a defective effective date of July 1, 2050, and was passed in its present form by the House Committee on Finance.

Because the amount of federal credits allocated to the State is now adjusted for inflation, and therefore changes annually, the Department recommends that section 1 (which amends section 201H-15(b), Hawaii Revised Statutes) of the measure be modified to read:

> "(b) The state aggregate housing credit dollar amount shall be allocated annually [~~as required by section 42 of the Internal Revenue Code of 1986, as amended,~~] by the corporation in an amount equal to [~~$1.25 multiplied by the state population in the calendar year or such greater or lesser~~] <u>such</u> amount <u>allocated to the state</u> [~~as provided by~~] <u>under</u> section 42(h) of the Internal Revenue Code of 1986, as amended."

The Department notes that this measure sets the amount of the credit with respect to buildings that are not financed with tax-exempt bonds at fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii, whereas buildings that are to be financed with tax-exempt bonds will receive one hundred per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The Department defers to HHFDC on the merits of this provision.

However, if the Legislature wishes to adopt the changes proposed in this measure, in order to provide greater clarity, the Department recommends that section 2 of the measure be amended as follows:

> (c) [~~The~~] <u>For any qualified low-income building that receives an allocation prior to January 1, 2017, the</u> amount of the low-income housing tax credit that may be claimed by a taxpayer as provided in subsection (b) shall be fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The applicable percentage shall be calculated as provided in section 42(b) of the Internal Revenue Code.

(d) For any qualified low-income building that receives an allocation after December 31, 2016 and which is not financed with tax exempt bonds, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be:

(1) For the first five years, equal to the amount of the federal applicable percentage of the qualified basis pursuant to section 42(b) of the Internal Revenue Code; provided that if in any year the aggregate amount of credits under this subsection would exceed the amount of state credits allocated by the corporation for the qualified low-income building, the credits allowed for that year shall be limited to such amount necessary to bring the total of such state credits (including the current year state credits) to the full amount of state credits allocated to the qualified low-income building by the corporation;

(2) For the sixth year, zero, except that if the amount of credits allowed for the first five years is less than the full amount of state credits allocated by the corporation for the qualified low-income building, an amount necessary to bring the amount of the state credits to the full amount allocated by the corporation for the qualified low-income building; and

(3) For any remaining years, zero.

(e) For any qualified low-income building that receives an allocation after December 31, 2016 and which is financed with tax exempt bonds, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be:

(1) For the first five years, twice the amount of the federal applicable percentage of the qualified basis pursuant to section 42(b) of the Internal Revenue Code; provided that if in any year the aggregate amount of credits under this subsection would exceed the amount of state credits allocated by the corporation for the qualified low-income building, the credits allowed for that year shall be limited to such amount necessary to bring the total of such state

credits (including the current year state credits) to the full amount of state credits allocated to the qualified low-income building by the corporation;

(2) For the sixth year, zero, except that if the amount of credits allowed for the first five years is less than the full amount of state credits allocated by the corporation for the qualified low-income building, an amount necessary to bring the amount of the state credits to the full amount allocated by the corporation for the qualified low-income building; and

(3) For any remaining years, zero.

(f) In no event shall the total amount of state credits over the ten year period exceed:

(1) For buildings not financed with tax exempt bonds, fifty percent of the total federal credits allocated to the qualified low-income building over the ten year period; and

(2) For buildings financed with tax exempt bonds, one hundred percent of the total federal credits allocated to the qualified low-income building over the ten year period.

The remaining subsections should be renumbered accordingly.

Under section 201H-36, Hawaii Revised Statutes, HHFDC certifies that a housing project is entitled to the GET exemption, and upon such certification, a taxpayer is entitled to claim the GET exemption. The regulatory agreements and the determination of whether a taxpayer is eligible for the exemption remain with HHFDC; therefore, the Department will be able to implement these changes without undue burden.

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
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IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON HOUSING
March 15, 2016 at 2:50 p.m.
State Capitol, Room 225

In consideration of
H.B. 2744, H.D. 1
RELATING TO HOUSING.

The HHFDC ***offers comments on*** H.B.2744, H.D. 1. This bill amends statutes relating to the State Low-Income Housing Tax Credit (LIHTC) program, which HHFDC administers. The LIHTC program is an important source of equity financing for affordable rental projects for households at or below 60 percent of the area median income.

H.B. 2744, H.D. 1 appears to accelerate both the 9% volume cap and the 4% non-volume cap LIHTCs which are coupled with the use of Hula Mae Multifamily revenue bonds, and to double the value of the State 4% non-volume cap LIHTCs. We note that the Administration bill, S.B. 2833, S.D. 2, would accelerate both the 9% volume cap and the 4% non-volume cap LIHTCs to increase the value of the credits.

Thank you for the opportunity to testify.

CATHOLIC CHARITIES HAWAI'I

TESTIMONY in SUPPORT of HB 2744, HD1: RELATING TO HOUSING

TO: Senator Breene Harimoto, Chair, Senator Brickwood Galuteria, Vice Chair, and Members, Senate Committee on Housing

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

Hearing: Tuesday, 3/15/16; 2:50 pm; CR 225

Chair Harimoto, Vice Chair Galuteria and Members, Committee on Housing:

Thank you for the opportunity to provide written testimony **in support of HB 2477, HD1**, which would make the State Low-Income Housing Tax Credits more valuable. I am Betty Lou Larson representing Catholic Charities Hawaii.

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. CCH has programs serving elders, children, developmentally disabled, homeless and immigrants. 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 supports the intent of this bill. By creating more incentives for investments in the State Low Income Housing Tax Credits (LIHTC), additional much needed capital could be generated to produce more affordable rental units. By reducing the State tax credit period from ten years to five years, this makes these credits more valuable. Investors receive the same credit and the State "suffers" the same loss of revenue, but over 5 years instead of 10 years. The impact is to increase the amount that investors will pay for these state credits. The federal Low Income Housing Tax Credits are so valuable that they are currently selling for close to $1.00 for $1.00 of credits!

We note that SB 2833, an administration bill, is also being heard by the House on this issue. These bills would enhance the potential to leverage all available resources to create housing. To end homelessness and to help our children remain in Hawaii, the key is construction of more affordable rentals. Hawaii already has the most expensive housing in the country, at more than twice the national average. Rent for a 2 bedroom unit rose 67% in Honolulu in the last 10 years. We need to action now. .

Thank you very much for hearing and considering this bill to provide more resources for the creation of affordable rental housing. Please contact me at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the Senate Committee on Housing
Tuesday, March 15, 2016 at 2:50 P.M.
Conference Room 225, State Capitol

RE: HOUSE BILL 2744 HD 1 RELATING TO HOUSING

Chair Harimoto, Vice Chair Galuteria, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** HB 2744 HD 1, which bases the amount of the tax credit on whether or not a building is financed by tax-exempt bonds. Increases funding for affordable rental housing development by making the State Low-Income Housing Tax Credit more valuable. Reduces State Tax Credit period from ten to five years.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber of Commerce of Hawaii and the Building Industry Association of Hawaii convened a conference (Houseless in Honolulu) in November of 2015 to raise awareness of one of Hawaii's most pressing issues - home affordability. With the median home price in the Islands now $730,000, the repercussions are having a major impact on Honolulu's economy.

The Department of Business, Economic Development and Tourism forecasted demand for additional housing units by county is 25,847 units for Honolulu, 19,610 for Hawaii, 13,949 for Maui, and 5,287 for Kauai during the 2015-2025 period (DBEDT Report—Measuring Housing Demand in Hawaii, 2015-2025).

We believe that in order to address the current "Housing Crisis," there needs to be a shift in the focus of how government views housing development and move from our current "Regulatory" stance to a more "Production Oriented" stance. For example, this shift would have the City and County of Honolulu adopt a goal of approving an average of 2,500 new residential units each year over the next 10 year period to address the project 25,847 unit demand.

Creating more incentives for investments in the State Low-Income Housing Tax Credit would provide the needed capital investment to produce more units at these price points.

We are in strong support of H.B. 2744 HD 1 and appreciate the opportunity to express our views on this matter.

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March 15, 2016

The Honorable Breene Harimoto, Chair
Senate Committee on Housing
State Capitol, Room 225
Honolulu, Hawaii 96813

RE: H.B. 2744, H.D.1, Relating to Housing

HEARING: Tuesday, March 15, 2016 at 2:50 p.m.

Aloha Chair Harimoto, Vice Chair Galuteria, 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 8,900 members. HAR **supports** H.B. 2744, H.D.1, which bases the amount of tax credit on whether or not a building is financed by tax-exempt bonds, increases funding for affordable rental housing development by making the state low income housing tax credit more valuable, and reduces the state tax credit period from 10 to 5 years.

The State Low Income Housing Tax Credit (LIHTC) has been a valuable financing mechanism to generate the development or substantial rehabilitation of affordable rental housing. HAR believe this is one of the key incentives in encouraging developers to build affordable housing and rentals.

Under the program, HHFDC awards federal and state tax credits that may be used to obtain an offset in income tax liability for 10 years or may be syndicated to generate substantial project equity.

HAR believes H.B.2744, H.D.1 will allow for a shorter recapture period for tax credits and to incentivize the development of affordable rental housing statewide.

Mahalo for the opportunity to testify.

BIA-HAWAII
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Testimony to the Senate Committee on Housing
Tuesday, March 15, 2016
2:50 P.M.
State Capitol - Conference Room 225

RE: H.B. 2744 H.D. 1: Relating to Housing.

Dear Chair Harimoto, Vice-Chair Galuteria, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA Hawaii is in **strong support** of H.B. 2744 H.D. 1, which propose to base the amount of the tax credit on whether or not a building is financed by tax-exempt bonds. It would also increase funding for affordable rental housing development by making the State Low-Income Housing Tax Credit more valuable, and would reduce the State Tax Credit period from ten to five years.

The Building Industry Association of Hawaii and the Chamber of Commerce of Hawaii convened a conference (Houseless in Honolulu) in November of 2015 to raise awareness of one of Hawaii's most pressing issues - home affordability. With the median home price in the Islands now $730,000, the repercussions are having a major impact on Honolulu's economy.

The Department of Business, Economic Development and Tourism forecasted demand for additional housing units by county is 25,847 units for Honolulu, 19,610 for Hawaii, 13,949 for Maui, and 5,287 for Kauai during the 2015-2025 period (DBEDT Report—Measuring Housing Demand in Hawaii, 2015-2025).

We believe that in order to address the current "Housing Crisis," there needs to be a shift in the focus of how government views housing development and move from our current "Regulatory" stance to a more "Production Oriented" stance. For example, this shift would have the City and County of Honolulu adopt a goal of approving an average of 2,500 new residential units each year over the next 10 year period to address the project 25,847 unit demand.

Creating more incentives for investments in the State Low-Income Housing Tax Credit would provide the needed capital investment to produce more units at these price points.

We are in strong support of H.B. 2744 H.D. 1 and appreciate the opportunity to express our views on this matter.

Testimony by In-State Partners

In Support of HB 2744 HD1
Senate Committee on Housing
Tuesday March 15, 2016; 2:50 PM; CR 225

The Honorable Breene Harimoto, Chair and Members of the Committee on Housing:

My name is Rachel Stern, with InState Partners, testifying in strong support of HB 2744 HD1 Relating to Housing and recommend amendments to the bill detailed below and in the attached proposed SD1.

Currently, for every 100 low-income families in Hawaii, there are only 29 affordable housing units available. Housing is considered "affordable" when a household spends less than 30 percent of their income on shelter and utilities. Households that spend more are considered cost-burdened and are frequently forced to make difficult financial tradeoffs with other basic necessities. Under these criteria, more than half of all Hawaii renters do not live in affordable housing.

State and Federal Low Income Housing Tax Credits can be a successful part of the solution to this affordable housing crisis. As the law is written now, the state provides a 50% match for the Federal credits for both 9% and 4% LIHTC projects. This bill, HB 2744 HD1, instead creates a one-to-one match between state and federal credits for the 4% deals. As is expected, 4% LIHTC deals are much more difficult to finance, because they require developers to take on significantly more debt than the 9% projects. The current 50% state match to federal credits does not generate enough subsidy for the 4% projects to be economically viable, resulting in low developer and investor interest. As such, Hawaii is currently only using 60% of the state's total possible Federal subsidies for these projects—a one-to-one match will help Hawaii bring more federal dollars to the state, and increase the amount of affordable housing projects being done on the islands.

While the measure provides an opportunity to increase the 4% dollars and deals coming to the state, we urge this committee to amend this measure by deleting the language on page 5, lines 20 - 21 and page 7, lines 13 – 15. These amendments delete Hawaii's conformity to Federal at-risk and passive activity loss limitations under Internal Revenue Code sections 465 and 469, respectively.

The at-risk limitation noted on page 5, lines 20 - 21only applies to individuals and closely-held corporations, thereby discouraging investments in low income housing tax credit projects from that investor pool. Removing the at-risk rules for state income tax purposes would broaden the potential investor pool. As of now, the at-risk rules effectively limit investments to large investment companies and publicly held corporations, not reflective of the Hawaii investor pool population. Removal of the at-risk limitation would level the playing field for Hawaii investors.

For similar reasons, we ask that you delete lines 13 – 15 on page 7, concerning passive activity loss limitations, which applies to individuals and closely-held corporations, the same as the at-risk provision, which will also put Hawaii investors at a disadvantage.

We welcome the chance to work with this committee and with the state departments to put forth a measure that incentivizes Hawaii developers and investors while building much needed low-income housing. Thank you for this opportunity to testify.

Proposed SD 1

the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be equal to fifty per cent of the amount of the federal low-income housing tax credits that would have been allocated to the qualified low-income building pursuant to section 42(b) of the Internal Revenue Code by the corporation had a subaward not been awarded with respect to the qualified low-income building

[~~(e)~~] (f) For the purposes of this section, the determination of:

(1) Qualified basis and qualified low-income building shall be made under section 42(c);

(2) Eligible basis shall be made under section 42(d);

(3) Qualified low-income housing project shall be made under section 42(g);

(4) Recapture of credit shall be made under section 42(j), except that the tax for the taxable year shall be increased under section 42(j)(1) only with respect to credits that were used to reduce state income taxes; and

[~~(5) Application of at-risk rules shall be made under section 42(k);~~]

[~~A~~] Subject to subsection (d), a tax credit under this section that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to properly and timely claim the credit shall constitute a waiver of the right to claim the credit. A taxpayer may claim a credit under this section only if the building or project is a qualified low-income housing building or a qualified low-income housing project under section 42 of the Internal Revenue Code.

[~~Section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall be applied in claiming the credit under this section.~~]

[~~(i)~~] (j) In lieu of the credit awarded under this section for a qualified low-income building that has been awarded federal credits that are subject to the state housing credit ceiling under section 42(h)(3)(C) of the Internal Revenue Code[~~,~~] or federal credits that are allocated pursuant to section 42(h)(4) of the Internal Revenue Code, or a subaward

TAX FOUNDATION OF HAWAII

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

SUBJECT: INCOME, Low-Income Housing Credit

BILL NUMBER: HB 2744, HD-1

INTRODUCED BY: House Committee on Housing

EXECUTIVE SUMMARY: Increases availability of the state low-income housing credit by increasing the aggregate amount, and makes the credit more valuable by reducing the payout period from ten to five years. Further increases the payouts and caps.

BRIEF SUMMARY: Amends HRS section 201H-15 to increase the state aggregate housing credit to $1.75 times population, up from $1.25.

Amends HRS section 235-110.8(c) to double the credit for buildings that are to be financed with tax-exempt bonds.

Adds a new section to HRS section 235-110.8 to provide that for each low-income housing project placed in service beginning after December 31, 2016, pursuant to IRC section 42(b), the state housing credit shall be recovered over 5 years instead of 10.

EFFECTIVE DATE: January 1, 2050, and shall apply to qualified low-income buildings awarded credits after December 31, 2016.

STAFF COMMENTS: Act 216, SLH 1988, adopted for Hawaii purposes the federal low-income rental housing credit that was part of the Tax Reform Act of 1986. The credit was enacted to offset the repeal of tax shelters and other incentives to build rental housing under prior law, such as accelerated depreciation, capital gains preference, certain tax-exempt bonds, and to specifically target low-income rentals.

The federal credit is a 70% present value credit for qualified new construction and rehabilitation expenditures which are not federally subsidized, and 30% for those which are federally subsidized. The existing state credit allows for a credit of 50% of the "applicable percentage of the qualified basis" allowed under federal law taken over a period of 10 years; the proposed measure would double the credit to 100% for those projects using tax-exempt bond financing; shorten the 10-year period to 5 years, and would again double the payout for those projects using tax-exempt bond financing.

While this is just one incentive to encourage developers to build affordable housing, consideration should be given to a number of strategies including the debt financing, partnerships with financial institutions who could then turn around and sell the credits, and the use of federal private activity bonds. Finally, apparently public officials still have not recognized that one of the greatest contributors to the cost of housing in Hawaii is the draconian maze of permitting and regulatory processes in order to bring those homes to market. While those regulatory guidelines are to insure the health and safety of the public, streamlining the process would accelerate the time needed to secure those permits thereby reducing the cost of financing. This savings would go a long way toward reducing the final cost of the house to the consumer. For example, for one housing project on Kauai, it took nearly five years to secure the necessary permits to build 14 affordable homes.

Digested 1/30/2016

From:	mailinglist@capitol.hawaii.gov
To:	HOU Testimony
Cc:	tabraham08@gmail.com
Subject:	*Submitted testimony for HB2744 on Mar 15, 2016 14:50PM*
Date:	Monday, March 14, 2016 12:18:45 PM

HB2744

Submitted on: 3/14/2016

Testimony for HOU on Mar 15, 2016 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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