DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
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 Tom Brower, Chair
and Members of the House Committee on Housing

Date: Tuesday, February 14, 2017
Time: 9:00 A.M.
Place: Conference Room 423, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 659, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 659 to increase home ownership by low-income individuals by creating an income tax credit for eligible developers that contribute cash, property, goods, and services to an eligible project. However, the Department has serious concerns about this measure because of the substantial ambiguities and because it authorizes the use of the credit to offset Transient Accommodation Taxes (TAT) under chapter 237D, Hawaii Revised Statutes. The Department provides the following comments for your consideration.

H.B. 659 creates a 50% tax credit, up to a maximum of $250,000 for costs involved in projects that assist low-income and very low-income residents. The measure is effective upon approval, and is available for tax years beginning after December 31, 2017.

The Department first notes that the measure seems to require the Department to evaluate a proposal by a taxpayer concerning a proposed housing project. The Department has no expertise in evaluating housing projects, and there are no criteria stated upon which the Department could even begin to evaluate a project. For example, no guidelines are proffered as to what constitutes a low- income or very low-income family. In any case, the Department is unable to perform this type of evaluation, and taxpayer confidentiality laws would prevent the information submitted in the proposal to be disseminated.

Second, the measure is unclear as to who may claim the credit. In particular, the measure provides that only “a contribution by an eligible developer” results in a tax credit. The use of the term “eligible” implies that there are ineligible developers, but fails to state who they are. The Department suggests clarifying subsection (b) so that it is clear who may claim the credit.

Third, the Department is seriously concerned about the provision that allows the credit to offset TAT liabilities. The TAT is imposed on the gross income of the transient accommodations operator. There are currently no tax credits in TAT law and allowing this type of cross-tax offset will create compliance and enforcement problems. Furthermore, it is unclear why a TAT offset is necessary when the intent of the measure is to incentivize the development of low income housing.

Finally, the Department is currently in the midst of its Tax System Modernization Program. Because income taxes will not be completely migrated, the Department is unable to implement this new credit as set forth in subsection (h). If the Committee wishes to advance this measure, the Department requests that the credit apply to taxable years beginning after December 31, 2017 to allow for sufficient time to make changes to the relevant forms, instructions and the computer system for proper implementation.

Thank you for the opportunity to provide comments.

Harry Kim
Mayor

Neil S. Gyotoku
Housing Administrator

Lance M. Niimi
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development

50 Wailuku Drive • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

February 10, 2017

The Honorable Tom Brower, Chair
The Honorable Nadine K. Nakamura, Vice Chair
and Committee Members
Committee on Housing

Twenty-Ninth Legislature
Regular Session of 2017

SUBJECT: **House Bill 659**
Hearing Date: February 14, 2017
Time: 9:00am
Conference Room: 423

The Office of Housing and Community Development (OHCD) **supports** House Bill 659 which creates a 50% tax credit to a maximum of $250,000 for costs involved in projects that provide housing for low-income and very-low-income residents.

The 50% tax credit will provide a much needed incentive to build affordable rental units for our most vulnerable populations. According to the recent Hawai'i Housing Policy Study 2016, Hawai'i County will need 7,442 additional units by 2020, which would require a massive undertaking to achieve. The State needs to be devoting all available resources toward the creation of affordable housing and this additional funding incentive is prudent first-step.

The OHCD asks that you support affordable housing and support HB659. Thank you for your careful consideration of the positive impacts of this bill.

Neil S. Gyotoku
Housing Administrator

190Tasr

TAX FOUNDATION OF HAWAII

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

SUBJECT: INCOME, Credit for Homeownership Development

BILL NUMBER: SB 668; HB 659

INTRODUCED BY: SB by HARIMOTO, Dela Cruz, Espero, Inouye, Keith-Agaran, Nishihara, Riviere; HB by NAKAMURA, BROWER, MORIKAWA, TOKIOKA

EXECUTIVE SUMMARY: This measure enacts a new credit for costs involved in projects that provide housing for low income residents. The credit legislation is technically flawed, and appears to cover the same ground as the existing low-income housing tax credit.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a homeownership development tax credit.

The amount of the credit is 50% of the value of the contribution by an eligible developer to an eligible project made during the taxable year, up to a maximum credit amount of $250,000.

Provides that any taxpayer wishing to claim this credit shall submit a proposal to the department of taxation containing specified information.

Defines "contribution" as including cash, property, goods donated, and services to assist or facilitate development and management; land acquisition; downpayment and closing assistance; housing counselling and marketing fees; or the removal of liens recorded against residential property by municipal, county, or special-district local governments relating to an eligible project.

Defines an "eligible project" as construction or renovation in specific, identifiable single-unit or multiple-unit residential properties for the purpose of providing homeownership opportunities to low-income households or very-low-income households.

EFFECTIVE DATE: Taxable years beginning after December 31, 2016.

STAFF COMMENTS: This bill is unclear and inconsistent.

- Proposed subsection (a) requires the eligible taxpayer to be subject to chapter 237D, which is the transient accommodations tax. That requirement does not make sense when no transient accommodation property is involved.
- Proposed subsection (f) asks that a taxpayer wishing to claim a credit needs to submit a "proposal" to the department of taxation, but there is no mechanism in the statute as drafted for acceptance or approval of the proposal. In contrast, tax credits are usually claimed after the fact with the right of the tax agency to audit the claim.
- Proposed subsection (i) requires the taxpayer to be in compliance with all applicable federal, state, and county statutes, rules, and regulations, including the Davis-Bacon Act and HRS Chapter 104. Verifying compliance with this subsection is at best difficult and

may well be impossible. If, for example, a construction worker leaving the project and driving to a store to pick up supplies makes an illegal left turn, are all of the project credits forfeited?

- The definition of "contribution" in subsection (j) the bill, which defines what costs are creditable, is unclear as to what is creditable. It would be better to enumerate costs or other items for which a dollar amount is readily verifiable.
- The definition of "eligible project" requires a purpose of providing homeownership opportunities to low-income households or very-low-income households without specifying what thresholds are to be used for low-income or very-low-income and without specifying how the purpose of providing homeownership opportunities is to be manifested.

The subject matter of the bill is also probably duplicative of the credit in section 235-110.4, HRS.

Digested 1/27/2017

TESTIMONY IN SUPPORT

RE: H.B. No. **659**

Submitting Person: Charles Barker III
Principal, Hale Kupuna
chuck.kupunahale@gmail.com
Tel: 808-747-6141

Committee: HSG, FIN

Date/Time of Hearing: February 14, 2017 at 9:00 a.m.

Oral testimony requested at hearing: Yes

The foundation for the propriety of enactment of a homeownership development tax credit for costs involved in projects that provide housing for low-income and very-low income residents is sufficiently set forth in the recitals of HB 659.

The criticality of providing a sufficient supply of adequately constructed, new and affordable housing is now plainly evident to have reached crisis proportions.

The most current analyses of demand describes a goal of development of 65,000 - ***sixty-five thousand*** - affordable housing units between now and 2025. This is a staggering and daunting objective to accomplish in a scant eight (8) years. In order to have any prospect of accomplishing this – and there can be no doubt whatsoever that the need for this is an absolute societal priority – a concrete strategy with specific funding mechanisms must be devised and implemented without a moments delay.

HB 659 provides a specific financial incentive for developers to devote their focus, time, project conception and design, and capital to address the affordable home buyer sector of the population. While high-end and luxury homes may be more glamorous, and have monetarily far lager profit margins, mechanisms such as this proposed tax credit must be put in place to motivate those persons who have the fiscal resources, capabilities, organizational structure and development expertise, to direct their attentions, work and capital towards housing for home owners of lesser economic means.

The tax credit proposed by HB 659 will bring:

1. **Desperately needed high quality housing for low-income residents**
2. **Construction jobs at Davis-Bacon prevailing wage rates**
3. **Permanent structural improvements to the community and state.**
4. **Increased opportunity for homeownership by low-icome persons and families.**

I therefore respectfully request that the 2017 legislature pass this bill.

Charles Barker III