

JAN 24 2018

A BILL FOR AN ACT

RELATING TO HOUSING AFFORDABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that the lack of sufficient affordable housing is one of the most pressing problems facing the State. The legislature also finds that after one accounts for the cost of living, Hawaii has the highest housing costs and the lowest wages in the nation. As rent costs and home prices increase at rates that outpace increases in wages, the State must adopt new means of ensuring the availability of affordable housing and residents' access to sufficient resources to afford housing.

The legislature believes that amending the state tax code could help low-income wage earners afford housing, without having a significant negative impact on the State's fiscal status. First, increasing the existing refundable income tax credit for low-income household renters and converting the state earned income tax credit into a refundable tax credit could provide low- to moderate-income working families with immediate



1 access to additional funds that may be used to help pay their
2 rent. Second, the distribution of conveyance tax revenues could
3 be amended to provide a dedicated source of funding for the
4 rental assistance revolving fund to provide assistance to low-
5 income residents. Finally, the manner in which real estate
6 investment trusts are taxed could be amended to more efficiently
7 collect income taxes from out-of-state shareholders. This would
8 result in increased tax revenues, which could be used to fund
9 rental assistance programs and the tax credits augmented by this
10 Act.

11 The purpose of this Act is to:

12 (1) Allocate a portion of the conveyance tax revenues to
13 the rental assistance revolving fund to be used to
14 subsidize rents for persons who meet certain income
15 requirements;

16 (2) Authorize moneys in the rental assistance revolving
17 fund to be used to finance the completion of
18 environmental assessments and environmental impact
19 statements for eligible affordable housing projects
20 that may be required under chapter 343, Hawaii Revised
21 Statutes;



- 1 (3) Increase the availability of the income tax credit for
2 low-income household renters, and make adjustments to
3 that credit annually based on inflation;
- 4 (4) Convert the state earned income tax credit into a
5 refundable tax credit and change the amount of the
6 credit to an unspecified percentage of the federal
7 earned income tax credit; and
- 8 (5) Require real estate investment trusts to file returns
9 reporting their shareholders' pro rata shares of net
10 income attributable to this State, and withhold and
11 remit income taxes for those shareholders who do not
12 agree to file returns or pay tax on their pro rata
13 share of net income attributable to this State.

14 PART II

15 SECTION 2. This Act shall be known as the Housing
16 Affordability Act of 2018.

17 PART III

18 SECTION 3. Section 201H-123, Hawaii Revised Statutes, is
19 amended to read as follows:



1 " ~~[+]~~§201H-123~~[+]~~ Rental assistance revolving fund. (a)

2 There is created a rental assistance revolving fund to be
3 administered by the corporation.

4 (b) The rental assistance revolving fund may include sums
5 made available from ~~[any]~~:

6 (1) Any government program or grant~~[, from private]~~;

7 (2) Private grants or contributions~~[, from the]~~;

8 (3) The proceeds of any bond issue~~[,]~~;

9 (4) Conveyance tax revenues pursuant to section 247-7(3);

10 or ~~[from appropriations]~~

11 (5) Appropriations to the fund.

12 (c) The aggregate principal in the rental assistance
13 revolving fund shall be invested by the corporation in a manner
14 that ~~[will maximize]~~ maximizes the rate of return on investment
15 of the fund; provided that any investment made shall be
16 consistent with section 201H-77 but need not comply with section
17 36-21.

18 ~~[(e) The]~~ (d) Subject to the requirements of subsections

19 (e) through (g), the corporation may use, as needed, the

20 aggregate principal sum and the accumulated earnings in the



1 rental assistance revolving fund ~~[to]~~ for the following purposes
2 relating to eligible projects developed under this part:

3 (1) To make payments under rental assistance contracts ~~[or~~
4 ~~to]~~;

5 (2) To subsidize tenants' rents ~~[in eligible projects~~
6 ~~developed under this part; provided that the]~~; or

7 (3) To finance the costs of environmental assessments and
8 environmental impact statements that are required
9 under chapter 343.

10 (e) The corporation shall use up to \$25,000,000 plus any
11 bond proceeds to provide interim construction financing to:

12 (1) Qualified sponsors who are private nonprofit or for-
13 profit entities; or

14 (2) The corporation, for the development of affordable
15 rental housing~~[+~~

16 ~~provided further that the]~~.

17 (f) The corporation, in allotting interim construction
18 financing moneys pursuant to this subpart, shall give preference
19 to rental housing projects developed by qualified sponsors who
20 are private nonprofit or for-profit entities.



1 (g) Conveyance tax revenues deposited into the rental
2 assistance revolving fund pursuant to section 247-7(3) may only
3 be used to subsidize rents for individuals or families whose
4 income does not exceed thirty per cent of the area median income
5 as determined by the United States Department of Housing and
6 Urban Development."

7 SECTION 4. Section 247-7, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§247-7 Disposition of taxes.** All taxes collected under
10 this chapter shall be paid into the state treasury to the credit
11 of the general fund of the State, to be used and expended for
12 the purposes for which the general fund was created and exists
13 by law; provided that of the taxes collected each fiscal year:

14 (1) Ten per cent or \$6,800,000, whichever is less, shall
15 be paid into the land conservation fund established
16 pursuant to section 173A-5; ~~and~~

17 (2) Fifty per cent or \$38,000,000, whichever is less,
18 shall be paid into the rental housing revolving fund
19 established by section 201H-202[-]; and



(3) _____ per cent or _____, whichever is less, shall
be paid into the rental assistance revolving fund
established by section 201H-123."

PART IV

SECTION 5. Section 235-55.7, Hawaii Revised Statutes, is
amended to read as follows:

**"§235-55.7 Income tax credit for low-income household
renters.** (a) As used in this section:

[~~(1)~~] "Adjusted gross income" is defined by section 235-1.

"Consumer price index" means the consumer price index for
all urban consumers (CPI-U) for the Honolulu area, as published
by the United States Department of Labor, Bureau of Labor
Statistics, or a successor index.

[~~(2)~~] "Qualified exemption" includes those exemptions
permitted under this chapter; provided that a person for whom
exemption is claimed has physically resided in the State for
more than nine months during the taxable year; and provided
further that multiple exemption shall not be granted because of
deficiencies in vision, hearing, or other disability.

[~~(3)~~] "Rent" means the amount paid in cash in any taxable
year for the occupancy of a dwelling place [~~which~~] that is used



1 by a resident taxpayer or the resident taxpayer's immediate
2 family as the principal residence in this State. Rent is
3 limited to the amount paid for the occupancy of the dwelling
4 place only, and is exclusive of charges for utilities, parking
5 stalls, storage of goods, yard services, furniture, furnishings,
6 and the like. Rent shall not include any rental claimed as a
7 deduction from gross income or adjusted gross income for income
8 tax purposes, any ground rental paid for use of land only, [and]
9 or any rent allowance or subsidies received.

10 (b) Each resident taxpayer who occupies and pays rent for
11 real property within the State as the resident taxpayer's
12 residence or the residence of the resident taxpayer's immediate
13 family [~~which~~] that is not partially or wholly exempted from
14 real property tax, who is not eligible to be claimed as a
15 dependent for federal or state income taxes by another, and who
16 files an individual net income tax return for a taxable year,
17 may claim a tax credit under this section against the resident
18 taxpayer's Hawaii state individual net income tax.

19 (c) Each taxpayer [~~with an adjusted gross income of less~~
20 ~~than \$30,000~~] who has paid more than \$1,000 in rent during the
21 taxable year for which the credit is claimed may claim a tax



credit [~~of \$50~~] multiplied by the number of qualified exemptions to which the taxpayer is entitled~~[+]~~ in accordance with the tables below; provided that each taxpayer sixty-five years of age or over may claim double the tax credit; and provided further that a resident individual who has no income or no income taxable under this chapter may also claim the tax credit as set forth in this section.

Adjusted gross income

for a taxpayer filing

a single return or a

married person filing

separately

Credit per exemption

Not over \$18,750

\$150

Over \$18,750 but

not over \$28,125

\$100

Over \$28,125 but

not over \$37,500

\$ 50

Over \$37,500

\$ 0.

Adjusted gross income



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1	<u>for a taxpayer filing as</u>	
2	<u>a head of a household</u>	<u>Credit per exemption</u>
3	<u>Not over \$28,125</u>	<u>\$150</u>
4	<u>Over \$28,125 but</u>	
5	<u>not over \$42,188</u>	<u>\$100</u>
6	<u>Over \$42,188 but</u>	
7	<u>not over \$56,250</u>	<u>\$ 50</u>
8	<u>Over \$56,250</u>	<u>\$ 0.</u>
9		
10	<u>Adjusted gross income</u>	
11	<u>for a taxpayer filing a</u>	
12	<u>joint return under section</u>	
13	<u>235-93 or a surviving</u>	
14	<u>spouse</u>	<u>Credit per exemption</u>
15	<u>Not over \$37,500</u>	<u>\$150</u>
16	<u>Over \$37,500 but</u>	
17	<u>not over \$56,250</u>	<u>\$100</u>
18	<u>Over \$56,250 but</u>	
19	<u>not over \$75,000</u>	<u>\$ 50</u>
20	<u>Over \$75,000</u>	<u>\$ 0.</u>
21		



1 (d) For each taxable year beginning after December 31,
2 2019, each dollar amount listed in subsection (c) shall be
3 increased by an amount equal to that dollar amount multiplied by
4 the percentage, if any, by which the consumer price index for
5 the preceding calendar year exceeds the consumer price index for
6 the second preceding calendar year.

7 [~~(d)~~] (e) If a rental unit is occupied by two or more
8 individuals, and more than one individual is able to qualify as
9 a claimant, the claim for credit shall be based upon a pro rata
10 share of the rent paid.

11 [~~(e)~~] (f) The tax credits shall be deductible from the
12 taxpayer's individual net income tax for the tax year in which
13 the credits are properly claimed; provided that a husband and
14 wife filing separate returns for a taxable year for which a
15 joint return could have been made by them shall claim only the
16 tax credits to which they would have been entitled had a joint
17 return been filed. In the event the allowed tax credits exceed
18 the amount of the income tax payments due from the taxpayer, the
19 excess of credits over payments due shall be refunded to the
20 taxpayer; provided that allowed tax credits properly claimed by
21 an individual who has no income tax liability shall be paid to



1 the individual; and provided further that no refunds or payments
2 on account of the tax credits allowed by this section shall be
3 made for amounts less than \$1.

4 ~~[(f)]~~ (g) The director of taxation shall prepare and
5 prescribe the appropriate form or forms to be used herein, may
6 require proof of the claim for tax credits, and may adopt rules
7 pursuant to chapter 91.

8 ~~[(g)]~~ (h) All of the provisions relating to assessments
9 and refunds under this chapter and under section 231-23(c)(1)
10 shall apply to the tax credits hereunder.

11 ~~[(h)]~~ (i) Claims for tax credits under this section,
12 including any amended claims thereof, shall be filed on or
13 before the end of the twelfth month following the taxable year
14 for which the credit may be claimed."

15 PART V

16 SECTION 6. Section 235-55.75, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending subsection (a) to read:

19 "(a) Each qualifying individual taxpayer may claim a
20 ~~[nonrefundable]~~ refundable earned income tax credit. The tax
21 credit, for the appropriate taxable year, shall be ~~[twenty]~~



1 _____ per cent of the federal earned income tax credit allowed
2 and properly claimed under section 32 of the Internal Revenue
3 Code and reported as such on the individual's federal income tax
4 return."

5 2. By amending subsection (d) to read:

6 "(d) The credit allowed under this section shall be
7 claimed against the net income tax liability for the taxable
8 year. If the tax credit under this section exceeds the
9 taxpayer's income tax liability, the excess of the tax credit
10 over liability [~~may be used as a credit against the taxpayer's~~
11 ~~net income tax liability in subsequent years until exhausted.~~]
12 shall be refunded to the taxpayer; provided that the tax credit
13 claimed by a taxpayer who has no income tax liability shall be
14 paid to the taxpayer; and provided that no refunds or payment on
15 account of the tax credit allowed by this section shall be made
16 for amounts less than \$1. All claims, including amended claims,
17 for a tax credit under this section shall be filed on or before
18 the end of the twelfth month following the close of the taxable
19 year for which the credit may be claimed. Failure to comply with
20 the foregoing provision shall constitute a waiver of the right
21 to claim the credit."



PART VI

SECTION 7. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§235- Real estate investment trust returns; shareholder agreements; mandatory payments. (a) Each real estate investment trust shareholder receiving a dividend from the real estate investment trust shall take into account for purposes of this chapter a pro rata share of income attributable to the State and the pro rata share of income not attributable to the State, to the extent modified under this chapter, under rules similar to those regarding section 235-122(c). The percentage of the dividend attributable to the State shall be the same as the real estate investment trust's overall percentage of income attributable to the State.

Each real estate investment trust shall make a return for each taxable year, stating specifically:

(1) The items of its gross income and the deductions allowable by this chapter;

(2) The name, address, and social security or federal identification number of each person owning stock in



1 the real estate investment trust at any time during
2 the taxable year;

3 (3) The number of shares of stock owned by each
4 shareholder at all times during the taxable year;

5 (4) The income attributable to the State and income not
6 attributable to the State with respect to each
7 shareholder as determined under this chapter;

8 (5) Any modifications required under this chapter;

9 (6) The amount of money and other property distributed by
10 the real estate investment trust during the taxable
11 year to each shareholder;

12 (7) The amount of each distribution constituting a
13 dividend or capital gain dividend; and

14 (8) Any other information that the department, by form or
15 rule, may prescribe.

16 The real estate investment trust, on or before the day on
17 which its return is filed, shall furnish to each person who was
18 a shareholder during the year a copy of the information shown on
19 the return as the department may prescribe by form or rule. Any
20 return filed pursuant to this section, for purposes of sections



1 235-111 and 235-112, shall be treated as a return filed by the
2 real estate investment trust under section 235-92.

3 (b) The department shall permit any real estate investment
4 trust to file composite returns and to make composite payments
5 of tax on behalf of some or all of its nonresident shareholders.
6 The department may permit composite returns and payments to be
7 made on behalf of resident shareholders.

8 (c) A real estate investment trust shall file with the
9 department, in the form prescribed by the department, the
10 agreement of each nonresident shareholder of the real estate
11 investment trust to:

- 12 (1) File a return and make timely payment of all taxes
13 imposed by this State on the shareholder with respect
14 to the income of the real estate investment trust; and
15 (2) Be subject to personal jurisdiction in this State for
16 purposes of the collection of unpaid income tax,
17 together with related interest and penalties.

18 If the real estate investment trust fails to timely file
19 the agreements required by paragraphs (1) and (2) on behalf of
20 each of its nonresident shareholders, then the real estate
21 investment trust, at the times set forth in subsection (d),



1 shall pay to this State on behalf of each nonresident
2 shareholder in respect of whom an agreement has not been timely
3 filed an amount equal to the highest marginal tax rate in effect
4 under section 235-71 (if the shareholder is a corporation) or
5 235-51 (for any other shareholder), multiplied by the amount of
6 the shareholder's pro rata share of the income attributable to
7 the State as reflected on the real estate investment trust's
8 return for the taxable period. A real estate investment trust
9 shall be entitled to recover a payment made pursuant to the
10 preceding sentence from the shareholder on whose behalf the
11 payment was made.

12 (d) The agreements required to be filed pursuant to
13 subsection (c) shall be filed at the following times:

- 14 (1) At the time the annual return is required to be filed
15 for the first taxable period for which the real estate
16 investment trust became subject to this chapter; and
17 (2) At the time the annual return is required to be filed
18 for any taxable period in which the real estate
19 investment trust had a nonresident shareholder on
20 whose behalf such an agreement has not been previously
21 filed.



1 (e) Any amount paid by the real estate investment trust to
2 this State pursuant to subsection (b) or (c) shall be considered
3 to be a payment by the shareholder on account of the income tax
4 imposed on the shareholder for the taxable period.

5 (f) Any officer of any real estate investment trust who
6 wilfully fails to provide any information, file any return or
7 agreement, or make any payment as required by this section or by
8 section 231-15.6 shall be guilty of a misdemeanor.

9 (g) As used in this section, a "real estate investment
10 trust" means a corporation for which a valid election under
11 section 856 of the Internal Revenue Code, as amended, is in
12 effect."

13 PART VII

14 SECTION 8. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 9 This Act shall take effect upon its approval;
17 provided that:

18 (1) Part III shall take effect on July 1, 2018;

19 (2) Parts IV and V shall apply to taxable years beginning
20 after December 31, 2017; and



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1 (3) Part VI shall apply to taxable years beginning after
2 December 31, 2018.
3

INTRODUCED BY: _____

Jim
McDonald Jr



S.B. NO. 3101

Report Title:

Conveyance Tax; Rental Assistance Revolving Fund; Earned Income Tax Credit; Income Tax Credit for Low-Income Household Renters; Real Estate Investment Trusts; Income Tax on Shareholders; Withholding

Description:

Allocates a portion of the conveyance tax revenues to the rental assistance revolving fund to be used to subsidize rents for persons who meet certain income requirements. Authorizes moneys in the rental assistance revolving fund to be used to finance the costs of environmental assessments and environmental impact statements for eligible affordable housing projects. Increases the availability of the income tax credit for low-income household renters, and makes adjustments to that credit annually based on inflation. Makes the state earned income tax credit refundable and changes the amount of the credit to an unspecified percentage of the federal earned income tax credit. Requires that real estate investment trusts file returns reporting their shareholders' pro rata shares of net income and net income attributable to this State. Provides for composite returns and requires withholding for those shareholders who do not agree to file returns or pay tax on their pro rata share of net income attributable to this State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

