

SB 2595

Measure Title:	RELATING TO HOUSING.
Report Title:	Residential Housing; Visitability Standards; Income Tax Credit
Description:	Establishes an income tax credit for the cost of construction and renovation that complies with residential housing visitability standards.
Companion:	HB1920
Package:	Kupuna Caucus
Current Referral:	HOU, WAM
Introducer(s):	IHARA, KIM, NISHIHARA, RUDERMAN, S. Chang, Espero, Gabbard, Green, Harimoto, L. Thielen, Tokuda



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

January 30, 2018 at 2:45 p.m.
State Capitol, Room 225

In consideration of
S.B. 2595
RELATING TO HOUSING.

HHFDC **offers the following comments** on S.B. 2595. This bill is consistent with findings of the State of Hawaii Analysis of Impediments Fair Housing Choice with a Focus on People with Disabilities dated November 2016.

The Analysis of Impediments was funded by a consortium of eight State and County housing agencies led by the HHFDC. The consortium decided to focus the Analysis of Impediments on people with disabilities because most fair housing complaints submitted in Hawaii come from this protected class. The focus on people with disabilities enables a more in-depth exploration of the particular impediments that members of this protected class tend to face.

The basic values that have come to guide legislation and policy are that housing for people with disabilities should be affordable, meet their disability-related needs (particularly regarding physical accessibility), and be integrated into the community to foster social inclusion. Therefore, we support the intent of legislation like S.B. 2595, which provides incentives towards constructing or renovating residential housing to meet visitability standards.

We defer to the Department of Taxation on the tax and fiscal implications of this bill.

Thank you for the opportunity to testify.

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To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Housing

Date: Tuesday, January 30, 2018
Time: 2:45 P.M.
Place: Conference Room 225, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2595, Relating to Housing

The Department of Taxation (Department) appreciates the intent of S.B. 2595 and provides the following comments for your consideration. This measure establishes income tax credits for the cost of construction and renovation that complies with residential housing visitability standards. Tax credits are established for individual housing units and for bed and breakfast units separately. The measure is effective upon its approval, applies to taxable years beginning after December 31, 2017, and sunsets on January 1, 2023.

First, the Department notes that the credit is calculated at 100% of expenses. For individual housing, it is up to a maximum of \$3,000 for single family homes, or \$300 per unit in multi-family developments, up to a maximum of \$20,000. Bed and breakfast units have a maximum of \$3,000. As a general rule, credits that provide for 100% of qualifying costs often lead to inflated costs. For example, if qualifying work to be performed normally costs \$2,000 and the price was inflated to \$3,000 by a contractor, the customer may not be concerned about the inflated price because the additional \$1,000 would be received back from the State in the form of a tax credit. The Department suggests lowering the percentage to promote cost efficiency.

Second, the tax credit limits set forth in subsection (c) of each tax credit may not be sufficient to limit the credit as intended. Since the credit is only being limited by taxpayer per residential housing or bed and breakfast respectively, multiple taxpayers could claim a tax credit for the same property. For example, five household members living in the same house could each claim \$3,000 for a total of \$15,000. The Department suggests limiting the credit to one per tax map key number.

Third, the definition of "housing visitability standards", which is defined as the "minimum standards to provide accessibility and safety for individuals with disabilities when visiting or using residential space" seems insufficient. There is no fixed standard to which

taxpayers may refer to and the ambiguity may lead to tax disputes and appeals. In contrast, the definition of "qualified expenses" contains specific requirements. One way to remedy this issue would be to define "housing visitability standards" as the items enumerated under "qualified expenses", and change the term "qualified expenses" to "actual costs" and define that term as the "costs of construction and renovation that are necessary and directly incurred by the taxpayer to meet the housing visitability standards."

Fourth, it is not clear as to why a separate section is required for bed and breakfast units. A bed and breakfast unit is usually a residential property. By having both credits, it is also not clear if a taxpayer would be entitled to both credits for meeting the same standards. The Department suggests combining the two credits or adding a provision to each credit stating that both credits cannot be claimed for the same property.

Fifth, the Department notes that the credit is available for both new construction and renovations. If inclusion of such features is desirable in new construction, it may be a better idea to require features through changes in the building code. Otherwise the state would be incentivizing construction activity that would have already taken place.

Sixth, the Department suggests that subsection (b) be revised to state that "Distribution and share of credit shall be determined the same as under Internal Revenue Code section 704" rather than by rule. This amendment will prevent ambiguity in how the credit is distributed for pass-through entities.

Finally, the Department respectfully request that the new tax credit be made applicable to taxable years beginning after December 31, 2018. The Department is in the process of implementing individual income tax into its new computer system and additional time will allow the Department to properly implement new tax features such as credits.

Thank you for the opportunity to provide comments.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Housing
Tuesday, January 30, 2018 at 2:45 p.m.

By

David W. Leake, Ph.D., M.P.H.
Specialist, College of Education, Center on Disability Studies
Patricia Morrissey, Ph.D.
Director, Center on Disability Studies, College of Education
Daintry Bartoldus, Ph.D.
Executive Administrator
Hawai'i State Council on Developmental Disabilities
And
Michael Bruno
Interim Vice Chancellor for Academic Affairs
University of Hawai'i at Mānoa

SB 2595 – RELATING TO HOUSING

Chair Espero, Vice Chair Harimoto, and members of the committee:

Mahalo for the opportunity to testify today in support of SB 2595. I am here representing the Center on Disability Studies (CDS), College of Education, University of Hawai'i at Mānoa.

Over the past year or so, my colleague Patricia Morrissey, Director of CDS, and I have been working with many others in the informal Hawai'i Visitable Housing Coalition to incorporate simple visitability standards into residential renovation and construction. At the county level, these efforts led to adoption of a visitable housing resolution by the Honolulu City Council, and work on similar resolutions is underway on the Big Island and Maui. SB 2595 and the companion, HB 1920, were developed over the past half year in collaboration with the Kupuna Caucus.

The proposed visitability standards allow wheelchair users to easily go in a home through a no-step entrance, navigate hallways, access a bathroom and bedroom, turn on the lights, plug in electronics, and benefit from a smoke detector that makes both sound and light warning signals.

We recognize that the State Legislature is a critical partner in promoting the use of visitability standards statewide. By offering tax credits for including visitability standards in home construction and renovation, as proposed in SB 2595, we will bring about more visitable spaces for wheelchair users.

I would like to bring to your attention two reports that may help inform your deliberations by providing in-depth background information on visitable housing.

One report was by the State Legislature's own Home for Life Task Force, submitted in January 2011 and entitled, *Interim report to the Twenty Sixth Legislature, State of Hawaii, pursuant to SCR 7, SD 1*. It is available at:
http://lrbhawaii.info/reports/legrpts/legis/2012/scr7_sd1_09.pdf

The purpose of the Task Force was "to reduce barriers to aging in place and to facilitate multigenerational or accessible living." In its report, the Task Force explained that it only had enough time to "scratch the surface" in its research, so its recommendations mainly concerned further research and discussion. SB 2595 may be viewed as responding to the following recommendation on tax credits in that report:

"Explore public policies for builders to incentivize the construction of aging in place, multigenerational, visitable, or accessible homes. Possible incentives may be tax credits for developers through density bonuses, increased lot size or other credits."

The other report summarizes a study by CDS to meet the State of Hawai'i's responsibility to regularly inform the U.S. Department of Housing and Urban Development (HUD) about the "impediments to fair housing choice" it has identified and to provide a plan for reducing those impediments. CDS was engaged to conduct the study because the state and county jurisdictions with HUD funding decided to focus on impediments faced by people with disabilities, since "disability" has come to replace "race" and "religion" as the most common bases for complaints alleging housing discrimination. Our report was submitted in November 2016 and is entitled *Analysis of Impediments to Fair Housing Choice with a Focus on People with Disabilities*. It is available at:
<http://www.cds.hawaii.edu/sites/default/files/imce/downloads/projects/Fair-Housing-Project-Report.pdf>

The report explains that Hawai'i's people with mobility impairments tend to face a substantial impediment, namely the lack of housing that is both affordable and accessible for wheelchair users. A major report recommendation is therefore that all new housing in Hawaii meet at least the lowest level of accessibility according to international and U.S. building code standards, labeled Type C. Type C housing is also known as "visitable" because it enables people with mobility challenges to visit their friends and neighbors, thereby reducing their social isolation.

In our view, SB 2595 is transformational legislation. It is not just legislation that will benefit wheelchair users. It is not just legislation that will foster more social inclusion. It is legislation that will reinforce Hawaiian cultural traditions, by promoting multigenerational living and supporting seniors to age-in-place in natural environments that contribute to independence while avoiding placement in institutions. It is notable that over the lifetime of new homes, it is estimated that over two-thirds will be inhabited by at least one person

with mobility challenges. In addition, even those of us fortunate to be fully mobile are likely to appreciate living in a visitable home without steps to the entrance because, for example, we are trying to enter with a baby stroller or are temporarily on crutches due to an injury.

By increasing the stock of visitable homes, SB 2595 will generate economic benefits. Seniors and their families may enjoy substantial savings through reduced costs for home modifications plus being able to avoid or delay expensive institutional care. Tourism will also benefit because tourists in the specialty segment of wheelchair users will be better able to find accessible vacation rentals and bed-and-breakfasts and also visit local residents in their accessible homes.

Finally, SB 2595 if enacted will expire at the end of 2022. The Center on Disability Studies stands ready to work with the Legislature to study the impact of the tax credits in the legislation and to assess the value of extending them beyond 2022.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for Construction or Renovation of Housing with Visitability Standards

BILL NUMBER: SB 2595; HB 1920 (Identical)

INTRODUCED BY: SB by IHARA, KIM, NISHIHARA, RUDERMAN, S. Chang, Espero, Gabbard, Green, Harimoto, L. Thielen, Tokuda; HB by TAKAYAMA, CREAGAN, GATES, HASHEM, ICHiyAMA, ITO, KONG, LOPRESTI, MCKELVEY, MIZUNO, MORIKAWA, NISHIMOTO, SAY, SOUKI, THIELEN, YAMASHITA, Cachola

EXECUTIVE SUMMARY: Allows taxpayers to claim a tax credit for construction or renovation costs on a residence meeting certain standards to provide accessibility and safety for individuals with disabilities. But something urgent needs to be done about the bottlenecks and gridlock in the planning and permitting processes, without which the renovations contemplated by this bill cannot happen.

SYNOPSIS: Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235 to claim a nonrefundable tax credit on construction or renovation costs for residential housing. The credit shall be 100% of the construction and renovation costs up to \$3,000 for a single-family residence; or \$300 per unit for a development project of multiple residences, but not more than \$20,000.

Defines “qualified expenses” as costs of construction and renovation that are necessary and directly incurred by the taxpayer in order to comply with enumerated visitability standards.

The tax credit shall not be available for tax years beginning after December 31, 2022.

In the case of a partnership, S corporation, estate or trust, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level.

Credits in excess of a taxpayer’s income tax liability shall be applied to subsequent tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year.

Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235 to claim a nonrefundable tax credit on construction or renovation costs for a bed and breakfast that is registered with the county. The credit shall be 100% of the construction and renovation costs up to \$3,000. There shall be allowed no more than one tax credit for each bed and breakfast claimed by a taxpayer.

Other provisions of the bed and breakfast credit mirror those for the residential construction credit previously discussed.

EFFECTIVE DATE: Upon approval, applies to taxable years beginning after December 31, 2017.

STAFF COMMENTS: This measure proposes to establish a renovation tax credit, apparently to encourage the adoption of visitability and accessibility standards. No evaluation has been done to validate the effectiveness of this credit in spurring substantial renovations of residential properties. Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government.

Instead of subsidizing construction to get construction workers off the bench, government can assist in other ways. For private projects, the permitting and planning process is legendary for proceeding at a glacial pace. If the permits don't get approved, the renovations can't get built whether or not tax credits are available.

Rather than tinkering with the economy, lawmakers should rein back the role of government, or in other words, get out of the way and let the market lead the way to recovery.

Digested 1/29/2018

SB-2595

Submitted on: 1/28/2018 1:01:34 PM

Testimony for HOU on 1/30/2018 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments:

This bill which offers a tax credit for the cost of construction or renovation of residential housing to make it "visitable" appears to be a sensible approach to promoting accessibility and community integration for individuals with mobility impairments. The Center on Disability Studies has conducted a lot of research and prepared comprehensive materials to inform policymakers of the merits of this concept. As Hawaii's population ages this will become more of a concern for many people. A tax credit for those who want to avail themselves of the ability to undertake this form of construction or renovation appears to be a reasonable and balanced compromise. We acknowledge that some have raised concerns about the costs involved with mandating visitability standards in all new home construction, and we also acknowledge that some individuals may not necessarily want their home to be constructed in that fashion. For those reasons, we see this proposal as a good balance which would provide an incentive to a segment of our population that desires to have these improvements.