

STAND. COM. REP. NO. 1566

Honolulu, Hawaii

APR 09 2021

RE: H.B. No. 80
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 80, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE LOW-INCOME HOUSING TAX CREDIT,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the State's low-income housing tax credit.

More specifically, this measure:

- (1) Allows the low-income housing tax credit to be allocated in any manner agreed to by the parties, regardless of whether an individual or entity receiving an allocation is deemed to be a partner or member for federal income tax purposes;
- (2) Allows individuals or entities to be admitted to a partnership or limited liability company after the end of the taxable year, but before the individual or entity files its tax return;
- (3) Requires claims for the tax credit to include an Internal Revenue Service Form 8609;



- (4) Provides that for taxable years after December 31, 2020:
- (A) Certain federal provisions relating to the installment method, at-risk rules, and passive activity loss rules shall not be operative;
 - (B) All allocations to partners or members of their distributive shares of income, loss, and deductions under state income tax law shall be made in accordance with the written agreement of the partners or members;
 - (C) The total amount of state credits allocated for a qualified low-income building shall not exceed fifty percent of the total amount of federal tax credits allocated to the building for the ten-year federal credit period; and
 - (D) The deductions and expenses claimed by all Hawaii taxpayers on Hawaii income tax returns shall not exceed the deductions and expenses claimed by all taxpayers on federal returns;

provided that the foregoing shall not apply to any building that ceases to serve low-income households in accordance with federal and state low-income housing tax credit programs; and

- (5) Extends the sunset date of Act 129, Session Laws of Hawaii 2016, from December 31, 2021, to December 31, 2027.

Your Committee received testimony in support of this measure from Bank of Hawaii; Dowling Company, Inc.; Hunt Companies-Hawaii and Hunt Capital Partners, LLC; Maui Chamber of Commerce; Stanford Carr Development, LLC; and Sugar Creek Capital.

Your Committee received comments on this measure from the Department of Budget and Finance, Department of Taxation, Tax Foundation of Hawaii, and one individual.

Your Committee believes that partners or members of a partnership or limited liability company should be able to decide



how to allocate any low-income housing tax credits earned during a taxable year. Your Committee recognizes that, because the State's low-income housing tax credit law incorporates the federal tax provisions that relate to at-risk rules and passive activity loss rules, the state tax credit attracts a limited scope of investors. Accordingly, your Committee believes that by specifying that the state tax credit shall not be subject to federal tax provisions, the scope of taxpayers who will use the tax credit will increase and thus spur investment in subsidized housing for low-income residents.

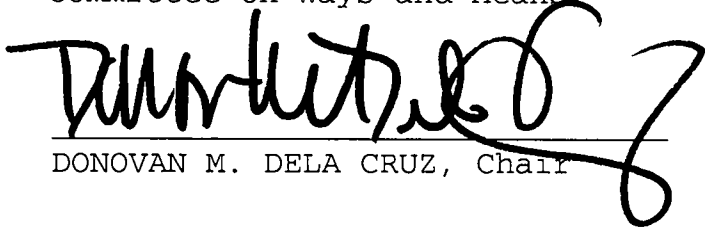
Your Committee has amended this measure by:

- (1) Specifying that the low-income housing tax credit may be allocated by a partnership or limited liability company in any manner agreed to by the partners or members, so long as each individual or entity that receives an allocation of the credit is deemed to be a partner or member pursuant to applicable state law;
- (2) Deleting language allowing an individual or entity to be admitted to a partnership after the end of the taxable year, but before the individual or entity files a tax return;
- (3) Specifying that it is not the intent of the measure to jeopardize the receipt of federal funds; and
- (4) Changing the effective date to July 1, 2051, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Ways and Means



A large, stylized handwritten signature in black ink, appearing to read 'Donovan M. DeLa Cruz', written over a horizontal line.

DONOVAN M. DELA CRUZ, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>HB 80, HD 1</i>	<i>WAM</i>	<i>4/7/21</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.				X
TANIGUCHI, Brian T.	.	X		
WAKAI, Glenn	X			
FEVELLA, Kurt	X			
TOTAL	<i>9</i>	<i>1</i>		<i>1</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>[Signature]</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes