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# HOUSE CONCURRENT RESOLUTION

URGING THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION TO  
COMBAT HOSTILE AND HARMFUL ACTIONS BY PROFIT-DRIVEN  
INVESTORS AND AGGREGATORS PARTICIPATING IN THE STATE'S LOW-  
INCOME HOUSING TAX CREDIT PROGRAM.

1           WHEREAS, many nonprofit housing development organizations in  
2 the State and throughout the nation have a mission to keep  
3 housing affordable in perpetuity; and  
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5           WHEREAS, creating affordable housing and keeping housing  
6 permanently affordable will help address the 50,000 housing unit  
7 shortage in the State; and  
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9           WHEREAS, in the case of Low-Income Housing Tax Credit  
10 (LIHTC) Program projects, nonprofit developers apply for these  
11 tax credits from the State and then sell the tax credits to  
12 banks or other institutions with high tax liabilities, with  
13 proceeds from the sale of the LIHTC tax credits funding the  
14 construction or renovation of buildings; and  
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16           WHEREAS, an investor who purchases LIHTC tax credits  
17 maintains some ownership in the project during a fifteen-year  
18 compliance period in which the investor receives the tax  
19 benefits; and  
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21           WHEREAS, a nonprofit developer may exercise the right of  
22 first refusal to purchase the entire project at the end of the  
23 fifteen-year compliance period from the investor at a minimal  
24 cost to maintain permanent affordability; and  
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26           WHEREAS, however, predatory investors seeking to make a  
27 profit sell LIHTC properties at market rate after the compliance  
28 period ends, after taking advantage of the tax credit benefits  
29 received during this same period; and



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2 WHEREAS, predatory investors have been manipulating the  
3 LIHTC Program for personal profit by devising methods to hold on  
4 to the LIHTC affordable housing beyond the fifteenth year and  
5 then selling the property at market rate, thereby blocking a  
6 nonprofit organization's right of first refusal; and  
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8 WHEREAS, by blocking the right of first refusal, predatory  
9 investors attempt to extract more profit out of affordable  
10 housing development, which is beyond what the LIHTC Program was  
11 designed to offer; and  
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13 WHEREAS, predatory actors are often not the original  
14 investor partners, but rather are predatory agents called  
15 aggregators who buy up ownership interest in LIHTC projects from  
16 original investors with the expectation that they will be able  
17 to block property transfer to nonprofits at year fifteen and  
18 then sell the buildings at market rate; and  
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20 WHEREAS, aggregators use a variety of tactics to block the  
21 right of first refusal of nonprofit organizations by disputing  
22 different aspects of the property transfer in lengthy and  
23 expensive court battles; and  
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25 WHEREAS, disputes over project transfers drain the  
26 resources of nonprofit organizations, as resource-strapped  
27 nonprofit organizations do not have the capacity to fight these  
28 legal battles; and  
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30 WHEREAS, protecting the right of first refusal of nonprofit  
31 organizations participating in the LIHTC Program is of critical  
32 importance, especially amid the housing and homelessness crises  
33 in the State; and  
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35 WHEREAS, to maintain the integrity and intent of the LIHTC  
36 Program, which was established to help finance the development  
37 or substantial rehabilitation of affordable rental housing, it  
38 is imperative to end the predatory practice of aggregators that  
39 undermine the goals of LIHTC, take advantage of the investor  
40 interests they already hold in LIHTC projects, and  
41 systematically challenge nonprofit organizations' project  
42 transfer rights under the LIHTC Program; now, therefore,



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BE IT RESOLVED by the House of Representatives of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2022, the Senate concurring, that the Hawaii Housing Finance and Development Corporation is urged to combat hostile and harmful actions by profit-driven investors and aggregators participating in the State's Low-Income Housing Tax Credit Program; and

BE IT FURTHER RESOLVED that the Hawaii Housing Finance and Development Corporation is urged to combat these actions by amending the 2023/2024 Qualified Application Plan for the LIHTC Program to qualify and confirm the ability of nonprofit developers to exercise their contracted right of first refusal or purchase options; and

BE IT FURTHER RESOLVED that the Hawaii Housing Finance and Development Corporation is also urged to amend LIHTC regulatory agreements to eliminate processes and tactics that prevent nonprofit organizations from exercising their right of first refusal; and

BE IT FURTHER RESOLVED that Hawaii's congressional delegation is requested to work on federal legislation that strengthens the right of first refusal in LIHTC projects and addresses predatory corporations that profiteer off existing affordable LIHTC housing that was developed using public resources; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to each member of Hawaii's congressional delegation and Executive Director of the Hawaii Housing Finance and Development Corporation.

OFFERED BY: *Nahealani K. Naha*

MAR 11 2022