
HOUSE 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
4

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
8

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
15

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
20

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
25

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
30



1 WHEREAS, predatory investors have been manipulating the
2 LIHTC Program for personal profit by devising methods to hold on
3 to the LIHTC affordable housing beyond the fifteenth year and
4 then selling the property at market rate, thereby blocking a
5 nonprofit organization's right of first refusal; and
6

7 WHEREAS, by blocking the right of first refusal, predatory
8 investors attempt to extract more profit out of affordable
9 housing development, which is beyond what the LIHTC Program was
10 designed to offer; and
11

12 WHEREAS, predatory actors are often not the original
13 investor partners, but rather are predatory agents called
14 aggregators who buy up ownership interest in LIHTC projects from
15 original investors with the expectation that they will be able
16 to block property transfer to nonprofits at year fifteen and
17 then sell the buildings at market rate; and
18

19 WHEREAS, aggregators use a variety of tactics to block the
20 right of first refusal of nonprofit organizations by disputing
21 different aspects of the property transfer in lengthy and
22 expensive court battles; and
23

24 WHEREAS, disputes over project transfers drain the
25 resources of nonprofit organizations, as resource-strapped
26 nonprofit organizations do not have the capacity to fight these
27 legal battles; and
28

29 WHEREAS, protecting the right of first refusal of nonprofit
30 organizations participating in the LIHTC Program is of critical
31 importance, especially amid the housing and homelessness crises
32 in the State; and
33

34 WHEREAS, to maintain the integrity and intent of the LIHTC
35 Program, which was established to help finance the development
36 or substantial rehabilitation of affordable rental housing, it
37 is imperative to end the predatory practice of aggregators that
38 undermine the goals of LIHTC, take advantage of the investor
39 interests they already hold in LIHTC projects, and
40 systematically challenge nonprofit organizations' project
41 transfer rights under the LIHTC Program; now, therefore,
42



H.R. NO. 104

1 BE IT RESOLVED by the House of Representatives of the
2 Thirty-first Legislature of the State of Hawaii, Regular Session
3 of 2022, that the Hawaii Housing Finance and Development
4 Corporation is urged to combat hostile and harmful actions by
5 profit-driven investors and aggregators participating in the
6 State's Low-Income Housing Tax Credit Program; and
7

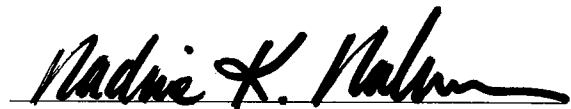
8 BE IT FURTHER RESOLVED that the Hawaii Housing Finance and
9 Development Corporation is urged to combat these actions by
10 amending the 2023/2024 Qualified Application Plan for the LIHTC
11 Program to qualify and confirm the ability of nonprofit
12 developers to exercise their contracted right of first refusal or
13 purchase options; and
14

15 BE IT FURTHER RESOLVED that the Hawaii Housing Finance and
16 Development Corporation is also urged to amend LIHTC regulatory
17 agreements to eliminate processes and tactics that prevent
18 nonprofit organizations from exercising their right of first
19 refusal; and
20

21 BE IT FURTHER RESOLVED that Hawaii's congressional
22 delegation is requested to work on federal legislation that
23 strengthens the right of first refusal in LIHTC projects and
24 addresses predatory corporations that profiteer off existing
25 affordable LIHTC housing that was developed using public
26 resources; and
27

28 BE IT FURTHER RESOLVED that certified copies of this
29 Resolution be transmitted to each member of Hawaii's
30 congressional delegation and Executive Director of the Hawaii
31 Housing Finance and Development Corporation.
32
33
34

OFFERED BY:



MAR 11 2022

