

MAR 10 2022

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

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

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

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

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

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

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



