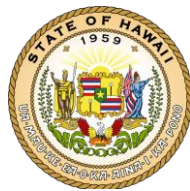


JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1152, Relating to Taxation

BEFORE THE:

Senate Committee on Health and Human Services;
Senate Committee on Housing

DATE: Tuesday, February 7, 2023

TIME: 2:15 p.m.

LOCATION: State Capitol, Room 225

Chair San Buenaventura & Chair Chang, Vice-Chair Aquino and Vice-Chair Kanuha,
and Members of the Committees:

The Department of Taxation ("Department") offers the following comments
regarding S.B. 1152 for your consideration.

S.B. 1152 adds a new section to chapter 235, Hawaii Revised Statutes (HRS),
that provides a refundable income tax credit of to 50 percent of the difference between
the annual lease rent collected and the annual appraised fair-market rental value of the
unit as determined by a licensed appraiser. The income tax credit is limited to rental
units that are valued at no more than \$2,000,000.

The measure includes definitions for (1) "eligible tenant" to mean a family or an
individual whose income does not exceed 80 percent of the area median income as
determined by the U.S. Department of Housing and Urban Development; (2) "qualified
unit" to mean a housing unit that was not developed as, and is not considered to be, an
affordable housing unit; and (3) "qualifying taxpayer" to mean a landlord who leases a
qualified unit for at least six months during the taxable year to eligible tenants. This
measure is effective upon approval and applies to taxable years beginning after
December 31, 2022.

First, the Department recommends making the tax credit nonrefundable, as refundable credits are more prone to fraudulent claims.

Second, to avoid misuse of the tax credit, the Department recommends (1) amending the definition of “eligible tenant” to exclude persons related to the qualifying taxpayer; and (2) adding a maximum amount for the credit that may be claimed by a qualifying taxpayer for each taxable year.

Third, with respect to subparagraph (b) on page 1, lines 10-15 of the bill requiring the tax credit for a partnership, S corporation, estate, or trust to be determined at the entity level, the Department recommends removing the “qualified expenses” requirement because the credit is based on the amount of rent collected and not on the amount of expenses incurred.

Fourth, the Department recommends defining the term “affordable housing unit,” as federal, state, and county requirements may differ regarding what constitutes affordable housing.

Fourth, the Department recommends specifying the time period during which the appraisal may be performed, as the fair market rental value of property may vary substantially throughout different time periods of the year.

Finally, the Department notes that, due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session in time for tax year 2023. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide comments on this measure.

February 7, 2023

The Honorable Joy A. San Buenaventura, Chair

Senate Committee on Health and Human Services

The Honorable Stanley Chang, Chair

Senate Committee on Housing

State Capitol, Conference Room 225 & Videoconference

RE: Senate Bill 1152, Relating to Taxation

HEARING: Tuesday, February 7, 2023, at 2:15 p.m.

Aloha Chair San Buenaventura, Chair Chang, and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** Senate Bill 1152 which establishes a landlord low-income tenant tax credit.

With Hawaii's high cost of living and a limited supply of housing, it can be a struggle for Hawaii residents and families looking to make ends meet. Hawai'i REALTORS® believes this is a creative win-win solution to address the rising cost of housing in Hawai'i by providing an income tax credit to housing providers who rent to a family or an individual whose income does not exceed 80% of the area median income for at least 6 months during a taxable year.

Furthermore, HAR believes that government subsidized housing assistance programs, such as Section 8, are an important part of our community's social safety net. As such, this could also encourage housing providers to participate in this valuable program.

For the foregoing reasons, Hawai'i REALTORS® supports this measure. Mahalo for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Landlord Low-Income Tenant Tax Credit

BILL NUMBER: SB 1152, HB 1225

INTRODUCED BY: SB by MCKELVEY, CHANG, SAN BUENAVENTURA, Wakai, HB by AMATO, GANADEN, HUSSEY-BURDICK, KILA, LAMOSAO, MIZUNO, POEPOE, TAM, Matsumoto

EXECUTIVE SUMMARY: Establishes a landlord low-income tenant tax credit.

SYNOPSIS: Adds a new section to chapter 235 establishing the landlord low-income tenant tax credit. The credit amount is 50% of the difference between the annual lease rent collected and the annual appraised fair market rental value of the unit as determined by a licensed appraiser.

The credit will not be available to units with an appraised property value exceeding \$2 million.

The credit is refundable.

All claims for the credit, including amended claims, shall be filed on or before the end of the 12th month following the close of the taxable year for which the credit may be claimed. Failure constitutes waiver of the right to claim the credit.

EFFECTIVE DATE: Taxable years beginning after December 31, 2022.

STAFF COMMENTS: The bill has definitions that apparently are supposed to contain further restrictions on credit eligibility, but might not be effective because the operative language of the bill does not reference those definitions.

For example, the bill contains a definition of an eligible tenant as a family or individual whose income does not exceed 80% of AMI (area median income). However, the credit language in subsection (c) does not use the term “eligible tenant” or any other defined term using “eligible tenant.”

Next, assuming the above restriction remains in the law, how is the landlord supposed to substantiate it? Is it sufficient that the tenant checks a box saying that they make 80% of AMI or less? Is the landlord required to record the actual amount of income (raising privacy concerns) or get a copy of the tenant’s tax return (raising more privacy concerns)?

If the information collection requirements are too burdensome, then either the landlord or tenant may decide it’s not worth the pilikia.

Generally speaking, the tax system is there to raise revenue to keep the government moving. Using the tax system to give taxpayers money to do things that lawmakers want them to do for social policy reasons merely throws the revenue raising system out of whack, making the system

less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

Furthermore, tax credits are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

The additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive compared to the amount that may be paid out in credits.

Digested: 2/5/2023

THE KŪPUNA CAUCUS



Feb.5, 2023

TO: COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

And: COMMITTEE ON HOUSING

Senator Stanley Chang, Chair

Senator Dru Mamo Kanuha, Vice Chair

CONCERNING: SB898 (Related to Kupuna Housing), SB1152 (Related to Taxation)

POSITION: Strong Support

The Kupuna Caucus strongly supports these two bills because they are uniquely relevant to many of the caucus members and many of our colleagues and residents in our respective districts and precincts. With the skyrocketing rents in Hawaii, and the shortage of really affordable housing in our state, Kupuna, can be the hardest hit.

Kupuna are usually on a fixed income, the value of which steadily decreases as the everyday cost of living increases. Long term residents of a unit can find themselves facing a rent increase they cannot pay, but they also cannot afford to move. A program that would provide the extra money needed to pay the increased rent could make all the difference for people who need that help.

Rewarding landlords who are willing to keep their rental properties really affordable is a simple and logical way to encourage them to continue that practice. It could also encourage them not to raise rents on long term residents who are often seniors, and reward those landlords who already follow that practice.

We hope that when the funds are made available the process for requesting such assistance will be made simple and easily accessible to those who desperately need it.

Martha E Randolph

Member of Kupuna Caucus

Precinct 2 Rep, District 27 Council

DPH Environmental Caucus SCC Representative

Member of DPH Legislative Priorities Committee

SB-1152

Submitted on: 2/6/2023 9:28:19 AM

Testimony for HHS on 2/7/2023 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

I support this bill to assist with low income tenant tax credits. Our most severe need for housing is for low income tenants. This Bill helps incentivize housing for those tenants with no new construction, no delays from permitting and development, no NIMBY opposition and no taking of new lands. This tax credit will help those most in need and help incentivize property owners in our community who want to help address our homelessness and housing crises.

Thank you for consideration of this measure and for helping find solutions that protect the housing needs for our community.

Ellen Godbey Carson