
A BILL FOR AN ACT

RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the low-income
2 housing credit is a federal tax credit under Section 42 of the
3 Internal Revenue Code that is intended to increase the
4 construction of low-income housing by awarding tax credits to
5 housing developers who agree to reserve a portion of their
6 housing developments for lower-income households.

7 The legislature further finds that Hawaii also has a state
8 low-income housing tax credit, based on the federal low-income
9 housing credit requirements. However, unlike the federal tax
10 credit, section 235-110.8(b), Hawaii Revised Statutes, allows
11 any partner or member of the housing developer to claim any
12 portion of that housing developer's state tax credit, including
13 partners and members who are not eligible for the corresponding
14 federal tax credit. This mechanism expands the potential pool
15 of investors and enhances opportunities for affordable housing
16 developers to raise the equity necessary to finance their
17 projects. However, the state low-income housing tax credit may



1 only be claimed against income tax, the taxes imposed under
2 chapter 235, Hawaii Revised Statutes.

3 The legislature also finds that the transient
4 accommodations tax under chapter 237D, Hawaii Revised Statutes,
5 is a tax imposed on hotels and similar entities that rent
6 accommodations to transient persons. The state low-income
7 housing tax credit cannot be used to offset transient
8 accommodations taxes.

9 Accordingly, the purpose of this Act is to facilitate the
10 construction of low-income housing by allowing the state
11 low-income housing tax credit to be used to offset transient
12 accommodations tax liability, which will increase the pool of
13 investors for low-income housing projects.

14 SECTION 2. Section 235-110.8, Hawaii Revised Statutes, is
15 amended by amending subsection (i) to read as follows:

16 "(i) The credit allowed under this section shall be
17 claimed against net income or other tax liability for the
18 taxable year. For the purpose of deducting this tax credit,
19 [~~net income tax liability~~] "net income or other tax liability"
20 means net income tax liability reduced by all other credits
21 allowed the taxpayer under this chapter[-] and any tax liability



1 assessed pursuant to chapter 237D in the county in which the
2 qualified low-income building is located.

3 A tax credit under this section that exceeds the taxpayer's
4 income or applicable transient accommodations tax liability may
5 be used as a credit against the taxpayer's income or applicable
6 transient accommodations tax liability in subsequent years until
7 exhausted. All claims for a tax credit under this section shall
8 be filed on or before the end of the twelfth month following the
9 close of the taxable year for which the credit may be claimed
10 and shall include a copy of Form 8609 issued by the corporation
11 with respect to the building; provided that with respect to the
12 first year that the credit is claimed for a qualified low-income
13 housing project, if the taxpayer has not yet received the Form
14 8609 prior to the time the taxpayer files its original tax
15 return claiming the credit under this section, the taxpayer may
16 claim the credit based upon the amount of credit set forth in
17 the carryover allocation or 42(m) letter, as applicable, issued
18 to the qualified low-income housing project, and upon receipt of
19 the Form 8609, the taxpayer shall:

20 (1) Amend its tax return to include the Form 8609; and



1 (2) If the credit amount in the Form 8609 is different
2 than the amount of credit previously claimed, adjust
3 the credit amount claimed on its amended return.
4 Failure to properly and timely claim the credit shall constitute
5 a waiver of the right to claim the credit. A taxpayer may claim
6 a credit under this section only if the building or project is a
7 qualified low-income housing building or a qualified low-income
8 housing project under section 42 of the Internal Revenue Code.

9 Except as provided under subsection (j)(1), section 469
10 (with respect to passive activity losses and credits limited) of
11 the Internal Revenue Code shall be applied in claiming the
12 credit under this section."

13 SECTION 3. Act 129, Session Laws of Hawaii 2016, as
14 amended by Act 226, Session Laws of Hawaii 2021, is amended by
15 amending section 4 to read as follows:

16 "SECTION 4. This Act, upon its approval, shall take effect
17 on January 1, 2017, and shall apply to qualified low-income
18 buildings awarded credits after December 31, 2016[~~; provided~~
19 ~~that this Act shall be repealed on December 31, 2027, and~~
20 ~~section 235-110.8, Hawaii Revised Statutes, shall be reenacted~~



1 ~~in the form in which it read on the day prior to the effective~~
2 ~~date of this Act]."~~

3 SECTION 4. Act 226, Session Laws of Hawaii 2021, is
4 amended by amending section 4 to read as follows:

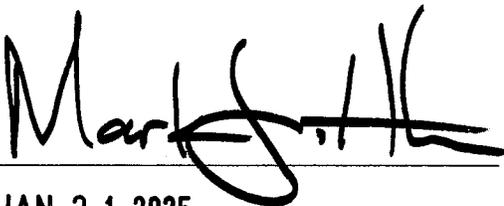
5 "SECTION 4. This Act shall take effect on July 1, 2021,
6 and shall apply to taxable years beginning after December 31,
7 2020 [~~; provided that the amendments made to section 235-110.8,~~
8 ~~Hawaii Revised Statutes, by section 1 of this Act shall not be~~
9 ~~repealed when that section is reenacted on December 31, 2027,~~
10 ~~pursuant to section 4 of Act 129, Session Laws of Hawaii 2016,~~
11 ~~and section 2 of this Act]."~~

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval;
15 provided that section 2 shall apply to taxable years beginning
16 after December 31, 2025.

17

INTRODUCED BY:



JAN 21 2025



H.B. NO. 916

Report Title:

Low-Income Housing Tax Credit; Affordable Housing; Transient Accommodations Tax

Description:

Allows tax credits claimed under the state low-income housing tax credit program to be used to offset taxes imposed by the state transient accommodations tax law. Specifies that tax credit amounts applied to state transient accommodations taxes be limited to state transient accommodations taxes imposed in the same county in which the qualified low-income building is located.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

