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# 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 is imposed on hotels and similar entities  
5 that rent accommodations to transient persons. The state low-  
6 income housing tax credit cannot be used to offset transient  
7 accommodations taxes.

8 Accordingly, the purpose of this Act is to:

9 (1) Facilitate the construction of low-income housing by  
10 allowing the state low-income housing tax credit to be  
11 used to offset transient accommodations tax liability,  
12 which will increase the pool of investors for low-  
13 income housing projects; and

14 (2) Make permanent Act 129, Session Laws of Hawaii, 2016.

15 SECTION 2. Chapter 237D, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§237D- Application of credits. The low-income housing  
19 tax credit may be claimed against any tax liability assessed  
20 pursuant to this chapter in the county in which the qualified



1 low-income building is located pursuant to section 235-  
2 110.8(i)."

3 SECTION 3. Section 235-110.8, Hawaii Revised Statutes, is  
4 amended by amending subsection (i) to read as follows:

5 "(i) The credit allowed under this section shall be  
6 claimed against net income or other tax liability for the  
7 taxable year. For the purpose of deducting this tax credit,  
8 ~~[net income tax liability]~~ "net income or other tax liability"  
9 means net income tax liability reduced by all other credits  
10 allowed the taxpayer under this chapter~~[-]~~ and any tax liability  
11 assessed pursuant to chapter 237D in the county in which the  
12 qualified low-income building is located.

13 A tax credit under this section that exceeds the taxpayer's  
14 income or applicable transient accommodations tax liability may  
15 be used as a credit against the taxpayer's income or applicable  
16 transient accommodations tax liability in subsequent years until  
17 exhausted. All claims for a tax credit under this section shall  
18 be filed on or before the end of the twelfth month following the  
19 close of the taxable year for which the credit may be claimed  
20 and shall include a copy of Form 8609 issued by the corporation  
21 with respect to the building; provided that with respect to the



1 first year that the credit is claimed for a qualified low-income  
2 housing project, if the taxpayer has not yet received the Form  
3 8609 prior to the time the taxpayer files its original tax  
4 return claiming the credit under this section, the taxpayer may  
5 claim the credit based upon the amount of credit set forth in  
6 the carryover allocation or 42(m) letter, as applicable, issued  
7 to the qualified low-income housing project, and upon receipt of  
8 the Form 8609, the taxpayer shall:

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

10 (2) If the credit amount in the Form 8609 is different  
11 than the amount of credit previously claimed, adjust  
12 the credit amount claimed on its amended return.

13 Failure to properly and timely claim the credit shall constitute  
14 a waiver of the right to claim the credit. A taxpayer may claim  
15 a credit under this section only if the building or project is a  
16 qualified low-income housing building or a qualified low-income  
17 housing project under section 42 of the Internal Revenue Code.

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



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

4       "SECTION 4. This Act, upon its approval, shall take effect  
5 on January 1, 2017, and shall apply to qualified low-income  
6 buildings awarded credits after December 31, 2016[; provided  
7 ~~that this Act shall be repealed on December 31, 2027, and~~  
8 ~~section 235-110.8, Hawaii Revised Statutes, shall be reenacted~~  
9 ~~in the form in which it read on the day prior to the effective~~  
10 ~~date of this Act]."~~

11       SECTION 5. Act 226, Session Laws of Hawaii 2021, is  
12 amended by amending section 4 to read as follows:

13       "SECTION 4. This Act shall take effect on July 1, 2021,  
14 and shall apply to taxable years beginning after December 31,  
15 2020[; ~~provided that the amendments made to section 235-110.8,~~  
16 ~~Hawaii Revised Statutes, by section 1 of this Act shall not be~~  
17 ~~repealed when that section is reenacted on December 31, 2027,~~  
18 ~~pursuant to section 4 of Act 129, Session Laws of Hawaii 2016,~~  
19 ~~and section 2 of this Act]."~~

20       SECTION 6. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1       SECTION 7. This Act shall take effect on July 1, 3000;  
2 provided that section 3 shall apply to taxable years beginning  
3 after December 31, 2025.



**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. Makes permanent Act 129, SLH 2016. Effective 7/1/3000. (HD1)

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

