



**GOV. MSG. NO. 1231**

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

June 29, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 29, 2016, the following bill was signed into law:

SB2833 SD2 HD2 CD1

RELATING TO THE LOW-INCOME HOUSING  
TAX CREDIT  
**ACT 129 (16)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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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. Section 235-110.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§235-110.8 Low-income housing tax credit. (a) [~~Section~~]  
4 As modified herein, section 42 (with respect to low-income  
5 housing credit) of the Internal Revenue Code shall be operative  
6 for the purposes of this chapter as provided in this section. A  
7 taxpayer owning a qualified low-income building who has been  
8 awarded a subaward under section 1602 of the American Recovery  
9 and Reinvestment Act of 2009, Public Law 111-5, shall also be  
10 eligible for the credit provided in this section.

11 (b) Each taxpayer subject to the tax imposed by this  
12 chapter, who has filed a net income tax return for a taxable  
13 year may claim a low-income housing tax credit against the  
14 taxpayer's net income tax liability. The amount of the credit  
15 shall be deductible from the taxpayer's net income tax  
16 liability, if any, imposed by this chapter for the taxable year  
17 in which the credit is properly claimed on a timely basis. A  
18 credit under this section may be claimed whether or not the



1 taxpayer claims a federal low-income housing tax credit pursuant  
2 to section 42 of the Internal Revenue Code.

3 (c) [The] For any qualified low-income building that  
4 receives an allocation prior to January 1, 2017, the amount of  
5 the low-income housing tax credit that may be claimed by a  
6 taxpayer as provided in subsection (b) shall be fifty per cent  
7 of the applicable percentage of the qualified basis of each  
8 building located in Hawaii. The applicable percentage shall be  
9 calculated as provided in section 42(b) of the Internal Revenue  
10 Code.

11 (d) For any qualified low-income building that receives an  
12 allocation after December 31, 2016, the amount of the low-income  
13 housing tax credits that may be claimed by a taxpayer as  
14 provided in subsection (b) shall be:

15 (1) For the first five years, equal to the amount of the  
16 federal low-income housing tax credits that have been  
17 allocated to the qualified low-income building  
18 pursuant to section 42(b) of the Internal Revenue Code  
19 by the corporation, provided that, if in any year the  
20 aggregate amount of credits under this subsection  
21 would be such that it would exceed the amount of state



1 credits allocated by the corporation for the qualified  
2 low-income building, the credits allowed for that year  
3 shall be limited to such amount necessary to bring the  
4 total of such state credits (including the current  
5 year state credits) to the full amount of state  
6 credits allocated to the qualified low-income building  
7 by the corporation;

8 (2) For the sixth year, zero, except that, if, and only  
9 if, the amount of credits allowed for the first five  
10 years is less than the full amount of state credits  
11 allocated by the corporation for the qualified low-  
12 income building, an amount necessary to bring the  
13 amount of the state credits to the full amount  
14 allocated by the corporation for the qualified low-  
15 income building; and

16 (3) For any remaining years, zero.

17 [~~(d)~~] (e) If a subaward under section 1602 of the American  
18 Recovery and Reinvestment Act of 2009, Public Law 111-5, has  
19 been issued for a qualified low-income building, the amount of  
20 the low-income housing tax credits that may be claimed by a  
21 taxpayer as provided in subsection (b) shall be equal to fifty



1 per cent of the amount of the federal low-income housing tax  
2 credits that would have been allocated to the qualified low-  
3 income building pursuant to section 42(b) of the Internal  
4 Revenue Code by the corporation had a subaward not been awarded  
5 with respect to the qualified low-income building.

6 [~~e~~] (f) For the purposes of this section, the  
7 determination of:

- 8 (1) Qualified basis and qualified low-income building  
9 shall be made under section 42(c);
- 10 (2) Eligible basis shall be made under section 42(d);
- 11 (3) Qualified low-income housing project shall be made  
12 under section 42(g);
- 13 (4) Recapture of credit shall be made under section 42(j),  
14 except that the tax for the taxable year shall be  
15 increased under section 42(j)(1) only with respect to  
16 credits that were used to reduce state income taxes;  
17 and
- 18 (5) Application of at-risk rules shall be made under  
19 section 42(k);

20 of the Internal Revenue Code.



1        [~~(f)~~] (g) As provided in section 42(e), rehabilitation  
2 expenditures shall be treated as a separate new building and  
3 their treatment under this section shall be the same as in  
4 section 42(e). The definitions and special rules in section  
5 42(i) shall be operative for the purposes of this section.

6        [~~(g)~~] (h) The state housing credit ceiling under section  
7 42(h) shall be zero for the calendar year immediately following  
8 the expiration of the federal low-income housing tax credit  
9 program and for any calendar year thereafter, except for the  
10 carryover of any credit ceiling amount for certain projects in  
11 progress which, at the time of the federal expiration, meet the  
12 requirements of section 42.

13        [~~(h)~~] (i) The credit allowed under this section shall be  
14 claimed against net income tax liability for the taxable year.  
15 For the purpose of deducting this tax credit, net income tax  
16 liability means net income tax liability reduced by all other  
17 credits allowed the taxpayer under this chapter.

18        A tax credit under this section that exceeds the taxpayer's  
19 income tax liability may be used as a credit against the  
20 taxpayer's income tax liability in subsequent years until  
21 exhausted. All claims for a tax credit under this section shall

1 be filed on or before the end of the twelfth month following the  
2 close of the taxable year for which the credit may be claimed.  
3 Failure to properly and timely claim the credit shall constitute  
4 a waiver of the right to claim the credit. A taxpayer may claim  
5 a credit under this section only if the building or project is a  
6 qualified low-income housing building or a qualified low-income  
7 housing project under section 42 of the Internal Revenue Code.

8 Section 469 (with respect to passive activity losses and  
9 credits limited) of the Internal Revenue Code shall be applied  
10 in claiming the credit under this section.

11 ~~[(i)]~~ (j) In lieu of the credit awarded under this section  
12 for a qualified low-income building that has been awarded  
13 federal credits that are subject to the state housing credit  
14 ceiling under section 42(h)(3)(C) of the Internal Revenue Code,  
15 federal credits that are allocated pursuant to section 42(h)(4)  
16 of the Internal Revenue Code, or a subaward under section 1602  
17 of the American Recovery and Reinvestment Act of 2009, Public  
18 Law 111-5, the taxpayer owning the qualified low-income building  
19 may make a request to the corporation for a loan under section  
20 201H-86. If the taxpayer elects to receive the loan pursuant to



1 section 201H-86, the taxpayer shall not be eligible for the  
2 credit under this section.

3 ~~[(j)]~~ (k) The director of taxation may adopt any rules  
4 under chapter 91 and forms necessary to carry out this section."

5 SECTION 2. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act, upon its approval, shall take effect  
11 on January 1, 2017, and shall apply to qualified low-income  
12 buildings awarded credits after December 31, 2016; provided that  
13 this Act shall be repealed on December 31, 2021, and section  
14 235-110.8, Hawaii Revised Statutes, shall be reenacted in the  
15 form in which it read on the day prior to the effective date of  
16 this Act.

APPROVED this 29 day of JUN, 2016



GOVERNOR OF THE STATE OF HAWAII