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,

[Signature]

DAVID Y. IGE  
Governor, State of Hawai‘i
A BILL FOR AN ACT

RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

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

SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is amended to read as follows:

"235-110.8 Low-income housing tax credit. (a) [Section]

As modified herein, section 42 (with respect to low-income housing credit) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this section. A taxpayer owning a qualified low-income building who has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, shall also be eligible for the credit provided in this section.

(b) Each taxpayer subject to the tax imposed by this chapter, who has filed a net income tax return for a taxable year may claim a low-income housing tax credit against the taxpayer's net income tax liability. The amount of the credit shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed on a timely basis. A credit under this section may be claimed whether or not the
taxpayer claims a federal low-income housing tax credit pursuant
to section 42 of the Internal Revenue Code.

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

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

(1) For the first five years, equal to the amount of the
federal low-income housing tax credits that have been
allocated to the qualified low-income building
pursuant to section 42(b) of the Internal Revenue Code
by the corporation, provided that, if in any year the
aggregate amount of credits under this subsection
would be such that it would exceed the amount of state
credits allocated by the corporation for the qualified low-income building, the credits allowed for that year shall be limited to such amount necessary to bring the total of such state credits (including the current year state credits) to the full amount of state credits allocated to the qualified low-income building by the corporation;

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

(3) For any remaining years, zero.

(e) If a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, has been issued for a qualified low-income building, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be equal to fifty
per cent of the amount of the federal low-income housing tax
credits that would have been allocated to the qualified low-
income building pursuant to section 42(b) of the Internal
Revenue Code by the corporation had a subaward not been awarded
with respect to the qualified low-income building.

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

(1) Qualified basis and qualified low-income building
    shall be made under section 42(c);

(2) Eligible basis shall be made under section 42(d);

(3) Qualified low-income housing project shall be made
    under section 42(g);

(4) Recapture of credit shall be made under section 42(j),
    except that the tax for the taxable year shall be
    increased under section 42(j)(1) only with respect to
    credits that were used to reduce state income taxes;
    and

(5) Application of at-risk rules shall be made under
    section 42(k);

of the Internal Revenue Code.
As provided in section 42(e), rehabilitation expenditures shall be treated as a separate new building and their treatment under this section shall be the same as in section 42(e). The definitions and special rules in section 42(i) shall be operative for the purposes of this section.

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

The credit allowed under this section shall be claimed against net income tax liability for the taxable year. For the purpose of deducting this tax credit, net income tax liability means net income tax liability reduced by all other credits allowed the taxpayer under this chapter.

A tax credit under this section that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section shall
be filed on or before the end of the twelfth month following the
close of the taxable year for which the credit may be claimed.
Failure to properly and timely claim the credit shall constitute
a waiver of the right to claim the credit. A taxpayer may claim
a credit under this section only if the building or project is a
qualified low-income housing building or a qualified low-income
housing project under section 42 of the Internal Revenue Code.
Section 469 (with respect to passive activity losses and
credits limited) of the Internal Revenue Code shall be applied
in claiming the credit under this section.

[(i)] (j) In lieu of the credit awarded under this section
for a qualified low-income building that has been awarded
federal credits that are subject to the state housing credit
ceiling under section 42(h)(3)(C) of the Internal Revenue Code,
federal credits that are allocated pursuant to section 42(h)(4)
of the Internal Revenue Code, or a subaward under section 1602
of the American Recovery and Reinvestment Act of 2009, Public
Law 111-5, the taxpayer owning the qualified low-income building
may make a request to the corporation for a loan under section
201H-86. If the taxpayer elects to receive the loan pursuant to
section 201H-86, the taxpayer shall not be eligible for the credit under this section.

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

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

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

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