

SB2594

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
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**SENATE COMMITTEE ON EDUCATION AND HOUSING
TESTIMONY REGARDING SB 2594
RELATING TO HOUSING**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 10, 2010

TIME: 1:20 PM

ROOM: 225

This measure adds a residency requirement for households in newly constructed or moderately or substantially rehabilitated housing project developed by a qualified person or firm in order for that person or firm to be eligible for the general excise tax exemption.

The Department **defers to the Hawaii Housing Finance and Development Corporation** on the merits of this legislation. The Department has the following specific comments on this measure:

1. The measure adds a new definition of "qualified person or firm" to Section 237-1, Hawaii Revised Statutes although it appears that the definition is intended to apply only to Section 237-29, Hawaii Revised Statutes. Defining that term for purposes of Chapter 237 is superfluous, since the definition would be set forth in Chapter 201H and thus applicable to Section 201H-36, Hawaii Revised Statutes, which provides the general excise tax exemption. The Department suggests that the definition be omitted from Chapter 237 to limit its applicability to Chapter 201H only.

2. It appears that the intent of the measure is to limit the exemption from the general excise tax solely to that portion of rental income attributable to rentals to households that meet the residency requirements set forth in the proposed amendments to Section 201H-36, Hawaii Revised Statutes. It should be noted that a disparity will exist between low income housing providers since an organization which is exempt from income tax under Internal Revenue Code Section 501(c)(3) is fully exempt from the general excise tax on its rental income under Section 237-23(a)(4), whereas this measure would exempt only the rental income attributable to households that meet the residency requirements as set forth in the proposed amendments to Section 201H-36, Hawaii Revised Statutes.

Department of Taxation Testimony

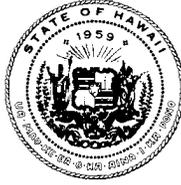
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3. It is unclear whether the residency requirement as contained in the measure would pass constitutional muster, since it would discriminate against households that do not have a qualified resident. The Department defers to the Department of the Attorney General on the constitutionality of the measure.

Linda Lingle
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
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IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON EDUCATION AND HOUSING

February 10, 2010, 1:20 p.m.
Room 225, State Capitol

In consideration of
S.B. 2594
RELATING TO HOUSING.

The HHFDC **opposes** S.B. 2594, because we do not believe that this bill is necessary. This bill requires the HHFDC to, in certifying affordable rental projects for the General Excise Tax (GET) exemptions under sections 201H-36 and 237-29, Hawaii Revised Statutes (HRS), ensure that certain households include "qualified residents" as defined in section 201H-32, HRS.

As previously stated in our testimony in opposition to S.B. 2592, the HHFDC also has concerns about the fairness of establishing a specific eligibility criteria for only one of the four types of housing projects eligible for the GET exemption under section 201H-36(a), HRS. For fairness reasons, as well as for reasons of uniform program administration, if it is the Committee's intent to move this bill forward, we suggest that the desired changes be applied to all projects eligible for GET exemptions. This includes government assistance projects, which constitute nearly all projects certified for GET exemptions by the HHFDC and its predecessors.

Thank you for the opportunity to testify.



FORD ISLAND HOUSING, LLC

737 Bishop Street, Mauka Tower, Suite 2750 • Honolulu, Hawaii 96813 • 808 585-7900 • FAX 808 585-7910

February 9, 2010

The Honorable Norman Sakamoto, Chair
Senate Committee on Education and Housing
State Capitol, Room 225
Honolulu, Hawaii 96813

RE: S.B. 2594 Relating to Housing

HEARING: Wednesday, February 10, 2010 at 1:20 p.m.

Aloha Chair Sakamoto, Vice Chair Kidani and Members of the Committee:

I am Craig McGinnis, Vice President of Ford Island Housing, LLC (“FIH”), the ground lessee and owner of The Waterfront at Pu’uloa, a rental housing project located at Iroquois Point/Pu’uloa, Ewa Beach, Hawaii (the “Pu’uloa Housing Project). FIH **opposes** S.B. 2594 which adds a residency requirement for households in a newly constructed or moderately or substantially rehabilitated housing project developed by a qualified person or firm in order for that person or firm to be considered to receive a General Excise Tax exemption.

S.B. 2594 modifies HRS §201H-36(a)(4) to require that for project qualification purposes a renter’s household must include a “qualified resident” under HRS §201H-32 who is domiciled in the State of Hawaii.

FIH believes the Pu’uloa Housing Project may not be able to qualify for its current exemption if it has to exclude military tenants, most of whom may not be “qualified residents” because they are not technically domiciled in Hawaii under federal law.

The Pu’uloa Housing Project consists of 1,446 two, three and four bedroom rental housing units that were constructed around 1960 (Iroquois Point) and 1975 (Pu’uloa) as federally-owned Navy housing.

FIH acquired the Pu’uloa Housing Project from the Navy in 2003 by way of a long-term lease under which FIH agreed to make renovations to all of the rental housing units over a period of time. The final phase of the renovations was completed in 2009. About half of the units in the Pu’uloa Housing Project are still occupied by active duty military personnel.

FIH paid GET on all of the Pu’uloa Housing Project rents until 2009, when the project received an exemption from GET for a portion of its rents from the Hawaii Housing Finance and Development Corporation under HRS §201H-36(a)(4). Under HHFDC rules, the project must

pay GET on rents received from units occupied by households with incomes above 140% of the area median income.

FIH believes that with the income limits imposed by its current GET exemption, the Pu'uloa Housing Project is an excellent model for the preservation of affordable workforce housing in Hawaii.

Mahalo for the opportunity to testify. We respectfully request that this bill be held for the foregoing reasons.

THE CHAMBER OF COMMERCE OF HAWAII
1132 Bishop Street, Suite 402
Honolulu, HI 96813

Testimony to the Senate Committee on Education and Housing
Wednesday, February 10, 2010
1:20 PM
Conference Room 225
RE: SENATE BILL NO. 2594, RELATING TO HOUSING

Chair Sakamoto Vice Chair Kidani, and members of the committee.

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's opposition to Senate Bill 2594, Relating To Housing.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the US military and its civilian workforce and families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The measure proposes to add a residency requirement for households in a newly constructed or moderately or substantially rehabilitated housing project developed by a qualified person or firm in order for that person or firm to be considered to receive a general excise tax exemption.

The residency provision outlined in this measure would unfairly change the housing eligibility for military personnel living in Hawaii and could have negative impact on the state's affordable housing program.

The proposed measure adds in Section 3, under HRS Section 201H-36, paragraph (a) (4), a new requirement that the household must include a "qualified resident" as defined in Section 201H-32. This will require the resident be domiciled in the state, which would disqualify virtually all military personnel as they are domiciled in their home states. **We should point out that a large number of military personnel qualify as low income families.**

Moreover, the exclusion of low income military personnel could have negative impact on the state's affordable housing program.

In light of the above, we oppose this measure and recommend that it be held.



Email to: EDHTestimony

Hearing on: February 10, 2010 @ 1:20 p.m.

Conference Room 225

DATE: February 10, 2010

TO: Senate Committee on Education and Housing
Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair

FROM: Dennis Arakaki, Executive Director

RE: SUPPORT INTENT OF SB 2592, RELATING TO THE GENERAL EXCISE TAX
SUPPORT INTENT OF SB 2593 RELATING TO THE HAWAII HOUSING FINANCE AND
DEVELOPMENT CORPORATION
SUPPORT INTENT OF SB 2594 RELATING TO HOUSING

Honorable Chair Senator Sakamoto, Vice Chair Senator Kidani and members of the Senate Committee on Education and Housing, I am Dennis Arakaki, **representing both the Hawaii Family Forum and the Roman Catholic Church in the State of Hawaii.**

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of over 250 Christian churches. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in Hawaii, which under the leadership of Bishop Larry Silva, represents over 220,000 Catholics in Hawaii. I also speak in behalf our community partner, the Catholic Schools of Hawaii.

We are in support the intent of **SB 2592, SB 2593 and SB 2594**, to provide General Excise Tax exemptions as a way of providing incentives to developers and owners of rental units for low and moderate income renters and for homeowners residing in new or substantially rehabilitated homes.

Thank you for allowing me to testify on these measure.

Nani Medeiros

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Senate Committee on Education and Housing

The Hon. Norman Sakamoto, Chair

The Hon. Michelle Kidani, Vice Chair

Senate Bill 2592, 2593, 2594

Relating to the General Excise Tax, Relating to the Hawaii Housing Finance and Development Corporation, Relating to Housing

February 10, 2010 – 1:20 p.m.

State Capitol Room 225

Thank you for the opportunity to testify, as an individual in support of Senate Bills 2592, 2593, and 2594. Due to the similarity of the issues these measures cover I have condensed my testimony in support of all three bills into one submission.

There is some ambiguity in the current 201H statute that provides GET exemptions for affordable housing. In today's economy, it makes good sense to re-examine this and other GET exemptions and determine if they are serving the best interest of the people of Hawaii. In the case of these measures, I believe they provide clear direction to the State on the intent of the legislature to provide GET exemptions and to require accountability in that process.

The main issues that these bills address are: (1) fairness; (2) hundreds of millions of GET revenues remaining in State for the benefit of the people of Hawaii; and (3) clarification of legislative intent and administrative procedure.

I urge you to pass this measure, provide a more level and fair playing field for all who need affordable housing and the developers of such projects, in addition to making available hundreds of millions of dollars into the economy at a time we desperately need these tax dollars. Thank you for this opportunity to testify in support of this very important bill.