

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

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February 28, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

The Honorable Jill N. Tokuda, Chair,  
The Honorable Donovan M. Dela Cruz, Vice Chair, and  
Members of the Senate Committee on Ways and Means

Date: Tuesday, February 28, 2017  
Time: 9:50 a.m.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 1105 SD1 Relating to Housing**

**I. OVERVIEW OF PROPOSED LEGISLATION**

DLIR supports the provisions of SB1105 SD1 pertaining to prevailing wages as an initiative to draw private sector financing, development and operation of workforce rental housing, into addressing the recognized deficit in Hawaii's housing inventory. As in the current 104-2(h), HRS, relating to projects financed with the proceeds of special purpose revenue bonds, the alternative of the terms of collective bargaining agreements provides a means to protect Hawaii industry standards and laborer and mechanic standards.

DLIR support for the measure is predicated on the understanding that it is not a categorical exemption from prevailing wages, but provides one alternative for a specific form of one type of construction. DLIR notes that the thousands of units of government assisted low-income rental housing, including public housing and private nonprofit or for profit housing, have been successfully developed in compliance with chapter 104, HRS, and/or Davis-Bacon prevailing wages, and SB1105 does not seek to change that.

## II. CURRENT LAW

Section 104-2, HRS, requires all public works construction in excess of \$2,000, to pay laborers and mechanics working on the construction project the prevailing wages set by the DLIR Director, although housing projects with a cost under \$500,000, developed under chapter 201H, HRS, by a non-profit corporation are exempt from the Wages and Hours of Employees on Public Works Law, chapter 104, HRS.

## III. COMMENTS ON THE SENATE BILL

The Department supports the intent of SB1105 SD1 to assist in the building of affordable housing in Hawaii. DLIR notes that S.C.R. 496 submitted by the Housing Committee raised a concern pertaining to the tax credit applying only to projects with signatories to collective bargaining agreements. Addressing the concern of some stakeholders and the Housing Committee could be addressed by two amendments, the first one by striking the proposed (i) and replacing it with the following:

(i) When:

(1) The Hawaii housing finance and development corporation has approved and certified for exemption from general excise taxes a qualified person or firm involved with a newly constructed, or moderately or substantially rehabilitated project under section 201H-36(a)(5);

(2) The qualified person or firm has entered into a contract with a general contractor or subcontractors whose workforce either;

(a) is subject to a collective bargaining agreement with a bona fide labor union and for which a special prevailing wage schedule for the laborers and mechanics employed for this construction project has been approved by the director; or

(b) is subject to a project labor agreement with the group whose wages are reflected in the Hawaii prevailing wage schedule for which a special prevailing wage for the laborers and mechanics employed for this construction project has been approved by the director;

(3) The qualified person or firm has received no other direct or indirect financing for this construction project from any other governmental contracting agency including the Hawaii housing finance and development corporation; and the terms of the collective bargaining agreement and associated provisions shall be deemed the prevailing wages and terms serving as the basis of compliance with this chapter for work on the project; provided that the special prevailing wage classification and the associated provisions shall be deemed the prevailing wage and terms serving as the basis of compliance with this chapter for work on this construction project; provided that this subsection does not affect the director's enforcement powers contained in subsection (g).

If the Committees were to adopt this recommendation, then the language inserted by the Housing Committee could be struck from the proposal on page 8, lines 20 to page 9, line 5.

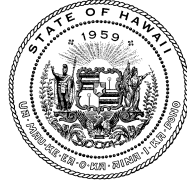
The second amendment the Department offers an amendment to §104-2(b)(2) by inserting the following at the beginning of 104(2)(b) to address the aforementioned concern in part:

Except for the special prevailing wage established by section 104-2(h) and (i), [The] the prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the government;

DLIR would consider a sunset provision as non-disruptive to operations, recognizing that for workforce rental housing financing and development, a substantial period of time would have to be provided, and allowance made for projects deemed to be in the "pipeline" at the time of sunset.

DAVID Y. IGE  
GOVERNOR

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DEPUTY DIRECTOR

To: The Honorable Gilbert S.C. Keith-Agaran, Chair  
and Members of the Senate Committee on Judiciary and Labor

The Honorable Jill N. Tokuda, Chair  
and Members of the Senate Committee on Ways and Means

Date: Tuesday, February 28, 2017  
Time: 9:50 A.M.  
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 1105, S.D. 1, Relating to Housing

The Department of Taxation (Department) appreciates the intent of S.B. 1105, S.D. 1, to increase affordable housing and defers to the Hawaii Housing Finance and Development Corporation (HHFDC) on the merits of this bill. The Department provides the following comments for your consideration.

Among other things, this measure expands the types of rental housing projects that can be exempted from the general excise tax (GET) by allowing projects, where all available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), and at least twenty per cent of which are reserved for households with incomes at or below eighty per cent of the area median family income as determined by the HUD. The measure is effective upon approval.

Under section 201H-36, Hawaii Revised Statutes, HHFDC certifies that a housing project is entitled to the GET exemption, and upon such certification, a taxpayer is entitled to claim the GET exemption. As the regulatory agreements and the determination of whether a taxpayer is eligible for the exemption remain with HHFDC, this measure will not have a substantial administrative impact on the Department.

The Department appreciates the Senate Committee on Housing adopting our requested effective date of taxable years beginning after December 31, 2017, in Section 3 of this measure.

As a technical comment, the Department suggests replacing the word “credit” with the word “exemption” on page 12, line 6, to avoid any confusion.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
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  
**Craig K. Hirai**  
Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**SENATE COMMITTEE ON WAYS AND MEANS**

February 28, 2017 at 9:50 a.m.  
State Capitol, Room 211

In consideration of  
**S.B. 1105, S.D. 1**  
**RELATING TO HOUSING.**

The HHFDC ***supports*** S.B. 1105, S.D. 1, which expands the General Excise Tax (GET) exemption for certified or approved housing projects pursuant to sections 201H-36 and 237-29, HRS, to include rental housing projects for households at or below 140 percent of the area median income (AMI), of which at least 20 percent of units are set-aside for households at or below 80 percent AMI, with a collective bargaining agreement described in proposed section 104-2(i)(2), HRS.

HHFDC is willing and able to expand its GET exemptions program to accommodate these types of affordable rental housing projects. We defer to the Departments of Labor and Taxation as to the bill's impact on their respective programs.

Thank you for the opportunity to provide written comments on this measure.

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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 28, 2017

TO: HONORABLE JILL TOKUDA, CHAIR, HONORABLE DONOVAN DELA CRUZ, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON WAYS AND MEANS

SUBJECT: **CONCERNS REGARDING S.B. 1105, SD1, RELATING TO HOUSING**  
Expands the types of rental housing projects that can be exempt from general excise taxes. Allows the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects. Sunsets on an unspecified date. (SD1)

PUBLIC DECISION MAKING

DATE: February 28, 2017  
TIME: 9:50 AM  
PLACE: Conference Room 211

Dear Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA supports the intent of S.B. 1105, SD1 however **GCA has concerns about how this bill is drafted** and how it appears to be allowing one that is signatory to a collective bargaining agreement utilize a tax exemption that may not be available to a non-signatory contractor. S.B. 1105, SD1 as drafted proposes to increase the types of rental housing projects that can be exempted from general excise taxes and allows the terms of a collective bargaining agreement and other provisions be deemed the wage rate to serve in compliance with Chapter 104, HRS, if, and only if, the general contractors and subcontractors on the project are parties to a collective bargaining agreement with a bona fide labor union. GCA understands the need to increase the number of available rental housing units and supports addressing ways in which to address this dire need in our state, however the bill as drafted provides special tax exemptions to some and not to all.

The bill as drafted will not encourage a competitive bidding environment for all interested in increasing the stock of affordable housing rentals for Hawaii's citizens in need, instead it would reserve a tax exemption for only those associated with a collective bargaining agreement. For these reasons, we respectfully raise concerns about the language as drafted.



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKA  
KALAELOA

David Y. Ige  
Governor

John Whalen  
Chairperson

Jesse K. Souki  
Executive Director

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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE  
SENATE COMMITTEES ON JUDICIARY AND LABOR  
AND WAYS AND MEANS

Tuesday, February 28, 2017  
9:50 A.M.

State Capitol, Conference Room 211

in consideration of  
**SB1105, SD1 – RELATING TO HOUSING**

Chairs Keith-Agaran and Tokuda, Vice Chair Rhoads and Dela Cruz and members of the committee.

The Hawaii Community Development Authority (HCDA) offers the following **comments** on SB1105, SD1.

This testimony reflects my view alone. The Hawaii Community Development Authority (HCDA) has not acted on this measure. In my capacity as the HCDA Executive Director, I respectfully offer the following **comments** on SB1105, SD1.

This bill would make rental housing projects aimed at families in the 80 to 140 percent Area Median Income (AMI) range more affordable to construct and would encourage the private sector to develop units at the lower end of the affordability market. Rental housing for families in the 80 to 140 percent AMI is in strong demand. However, few projects are targeted to those families, in large part due to the cost of construction in Hawaii.

This bill is a private sector effort by the Rental Housing Coalition (that includes labor unions) to address issues of cost-effectiveness for these projects.

The proposal supports HCDA's legislative mandate to create mixed use districts where residential development integrates a mixture of residents with varying incomes, ages, and family groups.

Thank you for the opportunity to provide **comments** on this bill.



# Hawai'i Construction Alliance

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February 27, 2017

The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair  
and members  
Senate Committee on Judiciary and Labor  
415 South Beretania Street  
Honolulu, Hawai'i 96813

The Honorable Jill N. Tokuda, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
and members  
Senate Committee on Ways and Means  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**RE: Strong Support for SB1105 SD1, Relating to Housing**

Dear Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

We **strongly support SB1105 SD1**, which would expand the types of rental housing projects that can be exempted from general excise taxes and allow the terms of collective bargaining agreements and associated provisions to be deemed the prevailing wages and terms serving as the basis of compliance with Chapter 104, Hawaii Revised Statutes, for the construction of certain rental housing projects.

The Hawai'i Construction Alliance is extremely concerned about the chronic deficiency of rental apartment housing across the state. Simply put: the shortage of units for working moderate- and lower-income households is at a crisis level. Said shortage is negatively affecting families throughout the entire community, including our members, many of whom fall within the 80-140% AMI "middle income range."

Along with our partners in the banking, development, landowning, contracting, architecture, and engineering communities, we have formed the "Hawai'i Rental Housing Coalition," with the aim of identifying and carrying out concrete private-sector steps to make a meaningful impact on the economics of building and operating rental housing for families in the 80-140% AMI range. Through SB1105 SD1, we are seeking the State's assistance in this effort as well.

SB1105 SD1 would expand the existing general excise tax exemptions for allowable construction, development, and financing costs for projects wherein at least twenty percent of available units are for households whose incomes are at or below 80%AMI, and wherein all remaining units are households whose incomes are at or below 140%AMI. Compliance with these affordability requirements would be governed by HHFDC through the existing regulatory agreement process found in HRS §201H-36(b).

We believe that relief from general excise tax would immediately improve the economics of constructing, developing, and financing these types of rental housing projects.

Among the many concrete steps from the private sector is a commitment from the Hawai'i Construction Alliance unions to work to negotiate a special wage rate and benefits package to build rental housing projects meeting the same qualifications as described above.

In order to ensure that the Hawai'i Construction Alliance unions – or other unions who wish to participate – can negotiate a special wage rate and benefits package to build such rental housing projects, we are seeking an amendment to HRS Chapter 104 as part of SB1105 SD1.

Specifically, the amendment would clarify that if a developer has entered into a contract with a general contractor or subcontractors whose workforce is subject to a collective bargaining agreement with a bona fide labor union for the construction of the project, then the terms of the collective bargaining agreement and associated provisions shall be deemed the prevailing wages and terms serving as the basis of compliance with this chapter for work on the project.

The bill also includes a housekeeping measure to clarify that except for the special prevailing wage that already exists in HRS §104-2(h) and the special prevailing wage proposed for HRS §104-2(i), prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the government of the United States.

The Hawai'i Construction Alliance is excited to take a leadership role in encouraging the production of rental housing across our state. We ask your committees to join us in this effort by taking favorable action today on SB1105 SD1.

Mahalo,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam". The signature is written in a cursive, flowing style.

Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance  
[execdir@hawaiiconstructionalliance.org](mailto:execdir@hawaiiconstructionalliance.org)

# HAWAII RENTAL HOUSING COALITION

February 27, 2017

The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair  
and Members  
Senate Committee on Judiciary and Labor  
415 South Beretania Street  
Honolulu, Hawai'i 96813

The Honorable Jill N. Tokuda, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
and Members  
Senate Committee on Ways and Means  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**RE: Strong Support for SB1105 SD1 (GET/Wages)**

Dear Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and Members:

The Hawaii Rental Housing Coalition (HRHC) is a non-profit citizens group comprised of landowners and developers, real estate industry professionals, Union representatives, segments of the non-profit community, and members of the banking industry who are committed to stimulating and supporting the private sector development of rental housing in the State of Hawaii. The HRHC's goal is to make it possible for the private sector to build rental housing for the workforce members of the community who earn less than 140% of the average median income (AMI) for their area.

It has long been recognized that affordable housing, and particularly rental housing in Hawaii, has become economically unfeasible for the private sector to develop. As such only subsidized projects utilizing government funding have been constructed.

A recent study by the Hawaii Housing Finance and Development Corporation (HHFDC) shows that by 2020 approximately 64,000+ rental units will be needed State-wide and more than 31,000 will be needed on Oahu. Government alone cannot address that need.

It is this need that the Hawaii Rental Housing Coalition is seeking to address. In order to do that the fundamental economics of building rental housing in Hawaii must be altered. We seek to do that in a collaborative manner through the contributions of key players in the private sector who have committed to making a meaningful contribution to expand the supply of rental housing, the most important of which is the construction trade which has committed to wage reductions through negotiated contracts as allowed by SB 1105 SD1 in conjunction with GET exemptions applicable to affordable housing projects. It is for this reason that the Hawaii Rental Housing Coalition strongly supports the measures proposed by SB 1105 SD1.

Respectfully submitted,

Christine Nakashima-Heise, Project Coordinator

# HAWAII RENTAL HOUSING COALITION

Hawaii Rental Housing Coalition  
Christine Nakashima-Heise, Project Coordinator  
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# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, Broaden Affordable Housing Exemption

**BILL NUMBER:** SB 1105, SD-1

**INTRODUCED BY:** Senate Committee on Housing

**EXECUTIVE SUMMARY:** Allows another category of affordable housing project, but only where the contractor uses union labor. This bill shows where two policy initiatives may collide: the policy to encourage the construction of affordable housing, and the policy to mandate that construction workers be paid the prevailing wage on public works projects.

**SYNOPSIS:** Amends HRS section 104-2, part of Hawaii’s “Little Davis-Bacon Act,” to provide that a properly submitted collective bargaining agreement with a general contractor or subcontractors that applies to a certified affordable housing project will determine the “prevailing wages and terms” for purposes of compliance with chapter 104.

Amends HRS section 237-29 to add a new eligible category of affordable housing project, namely one developed under a contract described above by a qualified person or firm to provide affordable rental housing where all available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), of which at least twenty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by HUD. Contains a proviso that the tax credit established under this paragraph shall be available for taxable years beginning after December 31, 2017.

Makes a conforming amendment to HRS section 201H-36.

**EFFECTIVE DATE:** Upon approval, repeals on \_\_\_\_\_.

**STAFF COMMENTS:** Currently, the HHFDC may certify affordable rental housing projects under HRS 201H-36 as qualifying for the exemption under HRS 237-29.

One of the existing categories of affordable housing projects that can be certified is an affordable rental housing project where at least 50% of the available units are for households with incomes at or below 80% of the area median family income, of which at least 20% of the available units are for households with incomes at or below 60% of the area median family income.

The proposed additional category is an affordable rental housing project where all of the available units are for households with incomes at or below 140% of the area median family income, of which at least 20% of the available units are for households with incomes at or below 80% of the area median family income. However, it appears that to qualify for this category the

developer would need to use a union contractor whose collective bargaining agreement was properly submitted to DLIR under Hawaii's Little Davis-Bacon Act.

If the policy goal is to build more affordable housing, we need to be wary of attaching conditions to the goal that would bog down the process. In 2015, lawmakers authorized \$10 million to cool the sweltering classrooms in our public schools, but added so many requirements that the request for proposals to the industry for school cooling looked more like a novel than a pamphlet. Schools couldn't use the money to go down to the local hardware; the work called for was a lot more complicated. As a result, the \$10 million initiative to cool the schools turned out to be a miserable failure. Nowhere near the 1000 classrooms promised were cooled by the end of 2015.

As a technical matter, the proviso language in proposed HRS section 201H-36(a)(5) is inaccurate. No tax credit is established under that paragraph, only an exemption from tax for certain projects. This issue can be fixed by deleting the proviso and having the Act take effect for taxable years beginning after December 31, 2017.

Digested 2/24/2017

Dear Keith- Agaran of the judiciary and labor committee,

Bill: SB1105 SD1

Hearing date: Feb 28, 2017 9:50 am

My name is Nate Johnson and I am a student at MHS high school and I am the youngest of two in my family. My family rents in Hawaii because we just cannot afford a house and your bill has caught my interest. I agree with the fact that we should expand rental housing being exempt from GET (general excise tax). If we do this then that means we can build more rental properties for cheaper thus having more homes thus bringing the state more money. I agree with this because my household still owns a house in Georgia and thus if we make it so that we don't pay a GET then that means we can have more money in our pockets to take care of the family needs. In conclusion I think that it would be smart to get rid of GET on rental properties to make more people be able to afford housing in paradise.

Sincerely,

Nate Johnson