
A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING TAX CREDIT.

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

1 SECTION 1. The legislature finds that the lack of
2 affordable housing continues to be a critical problem in Hawaii.
3 The problem is exacerbated by record housing prices that have
4 caused a shrinking rental market and a growing homeless
5 population. Thus far, the State and the counties have failed to
6 adequately respond to this growing crisis.

7 The legislature also finds that, in recent years, the State
8 has invested millions of dollars in state tax credits to
9 encourage the development of hotels and other businesses to
10 stimulate the local economy. This investment method has proven
11 successful in rejuvenating and expanding businesses in the
12 State.

13 The purpose of this Act is to utilize the tax credit
14 investment method to provide a tax incentive to developers and
15 investors, as well as homeowners, to build more affordable
16 housing in the State.



1 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Affordable housing tax credit. (a) There shall
5 be allowed to each qualified taxpayer subject to the taxes
6 imposed by this chapter, or chapter 237, 237D, 238, 239, 241, or
7 431, a tax credit that may be claimed for taxable years
8 beginning after December 31, 2005, for qualified costs in the
9 development of affordable housing in the State. The tax credit
10 shall be deductible from the taxpayer's net income tax
11 liability, if any, imposed by this chapter or, at the election
12 of the taxpayer, from the tax liability imposed by chapter 237,
13 237D, 238, 239, 241, or 431.

14 (b) The tax credit earned shall be equal to the qualified
15 costs incurred from June 1, , through May 31, , up to a
16 maximum of \$ of credits in the aggregate for all
17 qualified taxpayers for all years; provided that notwithstanding
18 the amount of tax credits earned in any year, a maximum of
19 \$ of tax credits in the aggregate for all qualified
20 taxpayers may be used in any one taxable year. The credits over
21 \$ shall be used as provided in subsection (d). In the
22 case of a partnership, limited liability company, S corporation,



1 estate, trust, or association of apartment owners, the tax
2 credit allowable is for qualified costs incurred by the entity.
3 The costs upon which the tax credit is computed shall be
4 determined at the entity level.

5 (c) To qualify for the tax credit, a taxpayer shall:

6 (1) Have expended qualified costs on and be developing an
7 affordable housing rental unit or project in the
8 State;

9 (2) Rent the unit or project only to qualified tenants;

10 (3) Charge rent that is no more than _____ per cent of the
11 median family income established by the federal
12 Department of Housing and Urban Development;

13 (4) Retain the rental unit or project as a rental for a
14 minimum of twenty consecutive years, beginning the
15 year the taxpayer qualifies for a tax credit under
16 this section; and

17 (5) Comply with all applicable state and county laws and
18 ordinances, including federal and state tax
19 clearances.

20 (d) If the tax credit under this section exceeds
21 § _____ in the aggregate for all qualified taxpayers for any
22 taxable year or exceeds the taxpayer's tax liability under this



1 chapter or chapters 237, 237D, 238, 239, 241, and 431 for any
2 year for which the credit is taken, the excess of the tax credit
3 may be used as a credit against the taxpayer's tax liability for
4 the taxes set forth in this section in subsequent years until
5 exhausted; provided that the taxpayer may continue to claim the
6 credit provided in this section if the qualified costs are
7 incurred before June 1, , subject to the monetary ceilings
8 in subsection (b).

9 (e) Every claim, including amended claims, for a tax
10 credit under this section shall be filed on or before the end of
11 the twelfth month following the close of the taxable year for
12 which the credit may be claimed. Failure to comply with the
13 foregoing provision shall constitute a waiver of the right to
14 claim the credit.

15 (f) If, at any time during the -year period in which
16 tax credits are earned under this section, the costs incurred no
17 longer meet the definition of qualified costs, or there is a
18 violation of subsection (c), the credits claimed under this
19 section shall be recaptured. The recapture shall be equal to
20 one hundred per cent of the total tax credits claimed under this
21 section for the preceding taxable year; provided that the amount
22 of the credits recaptured shall apply only to those costs that



1 no longer meet the definition of qualified costs. The amount of
2 the recaptured tax credits determined under this subsection
3 shall be added to the taxpayer's tax liability for the taxable
4 year in which the recapture occurs under this subsection.

5 (g) If any credit is claimed under this section, then no
6 taxpayer shall claim a credit under any chapter identified in
7 this section for the same qualified costs for which a credit is
8 claimed under this section.

9 (h) The director of taxation shall prepare any forms that
10 may be necessary to claim a credit under this section. The
11 director may also require the taxpayer to furnish information to
12 ascertain the validity of the claims for credits made under this
13 section and, in consultation with other state and county
14 agencies, may adopt rules necessary to effectuate the purposes
15 of this section pursuant to chapter 91.

16 (i) As used in this section:

17 "Affordable housing" means a housing unit or project
18 constructed in Hawaii with qualified costs for the exclusive use
19 of qualified tenants.

20 "Project" means more than one affordable housing unit.

21 "Qualified costs" means any costs related to the plans,
22 design, and construction related to an affordable housing unit



1 or project, and costs for equipment that is permanently affixed
2 to an affordable housing unit or project, up to a total of
3 \$ _____ in the aggregate, incurred after May 31, _____, and
4 before June 1, _____; provided that "qualified costs" shall not:

- 5 (1) Include land acquisition costs; and
- 6 (2) Exceed \$ _____ per square foot for a unit, and \$ _____
7 per square foot for a project.

8 "Qualified taxpayer" means a person who fulfills the
9 requirements of subsection (c).

10 "Qualified tenant" means a family that qualifies to occupy
11 an affordable housing unit or project based on the federal
12 Department of Housing and Urban Development's median family
13 income criteria."

14 SECTION 2. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval
16 and shall apply to taxable years beginning after December 31,
17 2005.

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INTRODUCED BY:

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Jan 9.2
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Report Title:

Affordable Housing; Tax Credit

Description:

Provides a tax credit to encourage the construction of affordable housing in the State.

