
A BILL FOR AN ACT

RELATING TO CAPITAL INVESTMENTS.

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

1 SECTION 1. The legislature finds that Act 215, Session
2 Laws of Hawaii 2004 (Act 215), serves an important public
3 purpose by providing more venture capital in the State. There
4 is a critical shortage of seed and venture capital resources in
5 Hawaii that is impairing the growth of commerce. The
6 availability of venture equity capital must be increased if
7 Hawaii is to support its emerging high technology enterprises
8 and allow them to expand, relocate to the State, and
9 restructure.

10 Act 215 provides a significant advance in capital formation
11 for Hawaii's emerging technology firms and other fledgling,
12 expansion-oriented companies. The contingent tax credits in Act
13 215 allows the Hawaii strategic development corporation to
14 secure corporation loans to invest in venture capital funds. By
15 increasing return-driven, venture capital investments in
16 emerging enterprises, Act 215 diversifies the State's economic
17 base by helping Hawaii's local venture capital companies to
18 build strong track records to attract additional capital.



1 The purpose of this Act is to increase the availability of
2 venture capital in Hawaii by authorizing:

3 (1) The issuance of refundable tax credits in the amount
4 of \$120,000,000 to the Hawaii strategic development
5 corporation;

6 (2) The tax credits issued by the Hawaii strategic
7 development corporation to be used against tax
8 liability incurred for taxes assessed under the
9 State's insurance code;

10 (3) The Hawaii strategic development corporation to
11 transfer the tax credits as needed; and

12 (4) The Hawaii strategic development corporation to extend
13 guarantees and incur debt.

14 SECTION 2. Section 211G-1, Hawaii Revised Statutes, is
15 amended by amending the definitions of "tax credits" and
16 "taxpayer" to read as follows:

17 ""Tax credits" means refundable tax credits issued or
18 transferred pursuant to this chapter and available against
19 liabilities imposed by chapter 235 [~~0~~], 241[-], or 431.

20 "Taxpayer" means a person subject to a tax imposed by
21 chapter 235 [~~0~~], 241[-], or 431."



1 SECTION 3. Section 211G-12, Hawaii Revised Statutes is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) The State shall issue refundable tax credits to the
5 corporation that may be transferred or otherwise used to reduce
6 the tax liability of any taxpayer pursuant to chapter 235 [~~0~~],
7 241[~~7~~], or 431. The total amount of tax credits that may be
8 issued[~~7~~] and [~~which~~] that may be transferred pursuant to this
9 chapter by the corporation is [~~\$36,000,000.~~] \$120,000,000. Upon
10 compliance with subsection (b), the credits shall be freely
11 transferable by the corporation to transferees and by
12 transferees to subsequent transferees; however, the tax credits
13 so transferred by the corporation shall not be exercisable
14 before July 1, 2005, nor after July 1, 2030. The corporation
15 shall not transfer tax credits except in conjunction with a
16 legitimate call on a corporation guarantee. The corporation
17 shall immediately notify the president of the senate, the
18 speaker of the house of representatives, and the governor in
19 writing if any tax credit is transferred by the corporation in
20 conjunction with a legitimate call on a corporation guarantee;
21 provided that the corporation shall not be required to make that
22 notification for transfers to subsequent transferees."



1 2. By amending subsection (c) to read:

2 "(c) The corporation shall determine the amount of
3 individual tax credits to be transferred pursuant to this
4 chapter and may negotiate for the sale of those credits subject
5 only to the limits imposed by this chapter. The corporation
6 shall limit the transfer of tax credits that may be claimed and
7 used to reduce the tax otherwise imposed by chapter 235 [~~or~~],
8 241, or 431 for one fiscal year (including any tax credits that
9 are carried over by a taxpayer from a prior fiscal year and used
10 to reduce taxes otherwise imposed in the current fiscal year, as
11 permitted in subsection (g)) to not more than an aggregate total
12 of [~~\$12,000,000~~] \$20,000,000 per fiscal year. The board shall
13 clearly indicate on the face of the certificate or other
14 document transferring the tax credit the principal amount of the
15 tax credit and the taxable year or years for which the credit
16 may be claimed."

17 3. By amending subsections (f) and (g) to read:

18 "(f) The tax credits issued or transferred pursuant to
19 this chapter, upon election by the taxpayer at time of use,
20 shall be treated as a payment or prepayment in lieu of taxes
21 imposed under chapter 235 [~~or~~], 241[-], or 431. Tax credits
22 used pursuant to this chapter shall be claimed as a payment of



1 tax or estimated tax for the purposes of chapter 235 [~~or~~],
2 241[~~or~~], or 431.

3 (g) If the tax credits under this section exceed the
4 taxpayer's income tax liability under chapter 235 [~~or~~], 241, or
5 431 for any taxable year, [~~or for any other reason is not~~
6 ~~claimed by a taxpayer in whole or in part in any taxable year,~~
7 the excess of the tax credit over liability[~~, or the amount of~~
8 ~~the unclaimed tax credit, as the case may be, may be carried~~
9 ~~over and used as a credit against the taxpayer's income tax~~
10 ~~liability in any subsequent year until exhausted,~~] shall be
11 refunded to the taxpayer; provided that tax credits properly
12 claimed by a taxpayer who has no tax liability shall be paid to
13 the taxpayer, subject to:

14 (1) The deadline for the exercise of tax credits imposed
15 by subsection (a); and

16 (2) The monetary limit imposed by subsection (c)."

17 SECTION 4. Section 211G-15, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The corporation shall publish a separate annual
20 report, in conjunction with its annual audit, and present the
21 report to the governor, the senate president, and the speaker of
22 the house. The annual report shall review the mission of the



1 board and programs implemented according to the objective
2 measures set forth in the corporation's business plan[?] and
3 include detailed information regarding the corporation's
4 disbursement of funds and the issuance, transfer, and
5 administration of any tax credits authorized under this chapter.

6 The corporation shall distribute this annual report by any means
7 that will make it available to the financial community."

8 SECTION 5. The corporation is issued tax credits in the
9 amount of \$120,000,000, and is authorized to freely transfer
10 those credits pursuant to section 211G-12, Hawaii Revised
11 Statutes, to carry out the provisions of this Act.

12 The corporation shall limit the transfer of tax credits
13 that may be claimed and used to reduce the tax otherwise imposed
14 by chapter 235, 241, or 431, Hawaii Revised Statutes, for one
15 fiscal year (including any tax credits that are carried over by
16 a taxpayer from a prior fiscal year and used to reduce taxes
17 otherwise imposed in the current fiscal year, as permitted in
18 section 211G-12(g), Hawaii Revised Statutes), to not more than
19 an aggregate total of \$20,000,000 per fiscal year.

20 SECTION 6. The corporation is authorized to extend
21 financial guarantees pursuant to section 211G-13, Hawaii Revised
22 Statutes; provided that as a condition precedent to its



1 extension of each financial guarantee, the corporation shall
2 establish and maintain a reasonable reserve with respect to its
3 contingent liability as guarantor. The reasonable reserve shall
4 be established and maintained for the duration of each financial
5 guarantee.

6 SECTION 7. The corporation is authorized to incur
7 indebtedness in the amount of \$120,000,000, or the amount of
8 credits that are issued to the corporation pursuant to section
9 211G-14, Hawaii Revised Statutes, to carry out the provisions of
10 this Act.

11 SECTION 8. There is appropriated out of the capital
12 formation revolving fund the sum of \$1, or so much thereof as
13 may be necessary for fiscal year 2006-2007, to be expended by
14 the Hawaii strategic development corporation in carrying out the
15 purposes of chapter 211G, Hawaii Revised Statutes.

16 SECTION 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Capital Investments; State Private Investment Fund

Description:

Increases the amount authorized to \$120,000,000 in tax credits to the Hawaii strategic development corporation for the purposes of Act 215, SLH 2004. Enables tax credits issued by the corporation to be used to offset taxes incurred under the State's insurance code. Expands the corporation's annual reporting requirements. (SD2)

