

H.B. NO. 2345

A BILL FOR AN ACT

RELATING TO TAX CREDITS FOR RETROFITTING PRIVATE FACILITIES.

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

1 SECTION 1. 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- Private facilities retrofit tax credit.

5 (a) There shall be allowed to each taxpayer subject to the
6 taxes imposed by this chapter, an income tax credit, which shall
7 be deductible from the taxpayer's net income tax liability, if
8 any, imposed by this chapter for the taxable year in which the
9 credit is properly claimed.

10 The amount of the credit shall be four per cent of the
11 retrofit construction or renovation costs incurred during the
12 taxable year for each "qualified private facility" located in
13 Hawaii, and shall not include the construction or renovation
14 costs for which another credit was claimed under this chapter
15 for the taxable year.

16 In the case of a partnership, corporation, estate, trust,
17 or other association of owners of a qualified private facility,
18 the tax credit allowable is for retrofit construction or

1 renovation costs incurred by the entity for the taxable year.

2 The cost upon which the tax credit is computed shall be
3 determined at the entity level. Distribution and share of
4 credit shall be determined pursuant to section 235-110.7(a).

5 If a deduction is taken under section 179 (with respect to
6 election to expense depreciable business assets) of the Internal
7 Revenue Code, no tax credit shall be allowed for that portion of
8 the retrofit construction or renovation cost for which the
9 deduction is taken.

10 The basis of eligible property for depreciation or
11 accelerated cost recovery system purposes for state income taxes
12 shall be reduced by the amount of credit allowable and claimed.
13 In the alternative, the taxpayer shall treat the amount of the
14 credit allowable and claimed as a taxable income item for the
15 taxable year in which it is properly recognized under the method
16 of accounting used to compute taxable income.

17 (b) The credit allowed under this section shall be claimed
18 against the net income tax liability for the taxable year.

19 (c) If the tax credit under this section exceeds the
20 taxpayer's income tax liability, the excess of credit over
21 liability may be used as a credit against the taxpayer's income
22 tax liability in subsequent years until exhausted. All claims

1 for a tax credit under this section, including amended claims,
2 shall be filed on or before the end of the twelfth month
3 following the close of the taxable year for which the credit may
4 be claimed. Failure to comply with the foregoing provision
5 shall constitute a waiver of the right to claim the credit.

6 (d) The director of taxation shall prepare any forms that
7 may be necessary to claim a credit under this section. The
8 director may also require the taxpayer to furnish information to
9 ascertain the validity of the claim for credit made under this
10 section and may adopt rules necessary to effectuate the purposes
11 of this section pursuant to chapter 91.

12 (e) The tax credit allowed under this section shall be
13 available for taxable years beginning after December 31, 2005.

14 (f) To qualify for the income tax credit, the taxpayer
15 shall be in compliance with all applicable federal, state, and
16 county statutes, rules, and regulations.

17 (g) As used in this section:

18 "Retrofit construction or renovation cost" means any costs
19 incurred after December 31, 2005, for plans, design,
20 construction, and equipment related to new construction,
21 alterations, or modifications to a qualified private facility
22 that retrofits, updates, or hardens the existing structure or

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1 structures and appurtenances thereto for the purpose of
2 reinforcing the integrity according to specifications adopted by
3 the civil defense agency.

4 "Net income tax liability" means income tax liability
5 reduced by all other credits allowed under this chapter.

6 "Qualified private facility" means:

7 (1) Any "adult residential care home", "assisted living
8 facility", "expanded adult residential care home", or
9 "hospice home" as defined in section 321-15.1;

10 (2) Any healthcare facilities enumerated in section
11 321-11(10);

12 (3) Any "qualified hotel facility" as defined in section
13 235-110.4; or

14 (4) Any "place of public accommodation" as defined in
15 section 489-2.

16 (h) No taxpayer that claims a credit under this section
17 shall claim a credit under chapter 235D."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2006.

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INTRODUCED BY:

Calvin K. H. King

BY REQUEST
JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO TAX CREDITS FOR RETROFITTING PRIVATE FACILITIES.

PURPOSE: To provide a tax credit for taxpayers that incur costs for planning, designing, constructing, or otherwise modifying private facilities, which reinforces the facility's integrity pursuant to civil defense specifications.

MEANS: Add a new section to chapter 235, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Taxpayers, as owners of qualifying private facilities open to members of the public, should be allowed a tax credit for the meaningful investment in the modification of the facility that results in reinforcing the integrity of the structure. Taxpayers should be encouraged to retrofit outdated structures or building designs in pursuit of making these structures safer for patrons, including the general public. All retrofit construction that qualifies for the credit must be pursuant to civil defense standards, which would be those modifications dealing primarily with hurricane reinforcement.

Impact on the public: Passage of this bill would provide an incentive to owners of certain private facilities to harden their structures against hurricanes and other natural disasters.

Impact on the department and other agencies: Bill would provide additional protection for law enforcement officials of the State and counties performing their duties during a civil defense emergency or disaster.

GENERAL FUND: Reduced income tax to the general fund. Amount to be determined.

OTHER FUNDS: None.

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DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Taxation, Department of Budget
and Finance, and Department of Commerce and
Consumer Affairs.

EFFECTIVE DATE: July 1, 2006.