## A BILL FOR AN ACT

RELATING TO DISASTER RELIEF.

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

1	SECTION 1. (a) There shall be allowed to each taxpayer
2	who is not claimed or is not otherwise eligible to be claimed as
3	a dependent by another taxpayer for federal or Hawaii state
4	individual income tax purposes, who files a net income tax
5	return for a taxable year, a one-time nonrefundable earthquake
6	victim tax credit, except as otherwise provided in this Act.
7	The tax credit shall be deductible from the taxpayer's net
8	income tax liability imposed by chapter 235.
9	(b) The amount of the tax credit shall be by
10	the taxpayer for costs directly related to the damage directly
11	caused by the earthquakes occurring on the dates specified in
12	subsection (c) to the taxpayer's real or personal property;
13	provided that:
14	(1) The expenses or costs are not reimbursable by
15	insurance proceeds or disaster relief payments from
16	government agencies or non-profit organizations;
17	(2) The tax credit shall not exceed \$30,000 per individual

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taxpayer;

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1	(3)	he tax credit shall not exceed \$250,000 per trust,
2		state, partnership, association, company, or
3		corporation; and

- No refund as provided in subsection (f) or payment on 4 (4)5 account of the tax credit allowed by this Act shall be 6 made for amounts less than \$1.
- 7 The tax credit shall apply to a taxpayer who suffered 8 damage to the taxpayer's real or personal property that is 9

situated in the state, having occurred on October 15, 2006.

- 10 To qualify for the income tax credit, the taxpayer (d) 11 shall certify to the department of taxation that the taxpayer is 12 in compliance with all applicable federal, state, and county statutes, rules, and regulations. 13
- 14 To qualify for the income tax credit, the taxpayer 15 shall sign a statement and provide information determined by the 16 department of taxation as necessary to claim the credit under 17 penalties of perjury.
- 18 If the tax credit under this section exceeds the 19 taxpayer's net income tax liability, any excess of the tax 20 credit may be used as a credit against the taxpayer's income tax 21 liability for the taxable year the credit is claimed; provided 22 that tax credits properly claimed by a taxpayer shall be

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- 1 refunded to the taxpayer after being credited against the
- 2 taxpayer's income tax liability for the taxable year, if the
- 3 taxpayer qualifies under one of the following tests:
- 4 (1) All of the taxpayer's income is exempt from taxation
- 5 under section 235-7(a)(2) or (3); or
- 6 (2) The taxpayer's adjusted gross income is \$20,000 or
- 7 less.
- **8** (q) In the case of a partnership, S corporation, estate,
- 9 trust, or association of apartment owners, the tax credit
- 10 allowable is for expenses incurred and paid for by the entity
- 11 for the taxable year. The cost upon which the tax credit is
- 12 computed shall be determined at the entity level.
- (h) If a deduction is taken under Section 179 (with
- 14 respect to election to expense certain depreciable business
- 15 assets) of the Internal Revenue Code of 1986, as amended, no tax
- 16 credit shall be allowed for that portion of the expenses for
- 17 which the deduction is taken.
- 18 The basis of property shall not be increased by any amount
- 19 for which the credit is allowable and claimed. In the
- 20 alternative, the taxpayer shall treat the amount of the credit
- 21 allowable and claimed as a taxable income item for the taxable

- 1 year in which it is properly recognized under the method of
- 2 accounting used to compute taxable income.
- 3 (i) No taxpayer who claims the tax credit under this
- 4 section shall claim any other credit or deduction for the same
- 5 losses or other expenses or costs.
- 6 (j) Every claim, including amended claims, for the tax
- 7 credit under this section shall be filed on or before
- 8 December 31, 2008. Failure to meet the filing requirements of
- 9 this subsection shall constitute a waiver of the right to claim
- 10 the tax credit.
- 11 (k) If at any time after claiming the tax credit, the
- 12 taxpayer no longer qualifies for the credit because of
- 13 subsequent recovery for expenses used to calculate the credit,
- 14 the credits claimed shall be recaptured. The recapture shall be
- 15 equal to one hundred per cent of the tax credits that were
- 16 subsequently ineligible as a result of later recovery. The
- 17 amount of the recaptured tax credits shall be added to the
- 18 taxpayer's tax liability for the taxable year in which the
- 19 recapture occurs.
- 20 (1) In the case of fraud, making of a false statement, or
- 21 wilful disregard for the facts, associated with making a return
- 22 or otherwise claiming the tax credit, there shall be added to



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- 1 the amount wrongfully claimed on a return a penalty of fifty per
- 2 cent of the amount of such credit claimed.
- 3 (m) The director of taxation shall prepare any forms as
- 4 may be necessary to claim a tax credit under this section, may
- 5 require proof of the claim for the tax credit, and may adopt
- 6 rules without regard to chapter 91 to effectuate the purposes of
- 7 this section.
- 8 SECTION 2. This Act shall take effect on January 1, 2015,
- 9 and shall apply to the taxable year beginning after December 31,
- 10 2005, and before January 1, 2007.

### Report Title:

Disaster Relief; Tax Credit for Earthquake Victims

### Description:

Creates a one-time tax credit for victims of the October 15, 2006, earthquakes. (HB149 HD2)