HOUSE OF REPRESENTATIVES TWENTY-FOURTH LEGISLATURE, 2007 STATE OF HAWAII H.B. NO. 215

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The major earthquakes that struck Hawaii on the
 morning of October 15, 2006, caused significant damage to
 property across the state, particularly on the island of Hawaii.
 As of November 2006, estimates of the damage were approximately
 \$200,000,000. The legislature finds that tax credits would
 assist property owners in recovering from their losses.

7 SECTION 2. (a) There shall be allowed to each taxpayer 8 who is not claimed or is not otherwise eligible to be claimed as 9 a dependent by another taxpayer for federal or Hawaii state 10 individual income tax purposes, who files a net income tax 11 return for a taxable year, a one-time nonrefundable earthquake 12 victim tax credit, except as otherwise provided in this Act. 13 The tax credit shall be deductible from the taxpayer's net 14 income tax liability imposed by chapter 235, Hawaii Revised 15 Statutes.

(b) The amount of the tax credit shall be:

17 (1) Fifty per cent of the total amount expended by
 18 the taxpayer for costs directly related to the
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1	damage directly caused by the earthquakes to the
2	taxpayer's real or personal property, up to a
3	maximum of \$10,000; and
4	(2) For costs in excess of the amount described
5	in paragraph (1), ten percent of the total amount
6	expended by the taxpayer for costs directly
7	related to the damage directly caused by the
8	earthquakes to the taxpayer's real or personal
9	property, up to a maximum of \$10,000;
10	provided that:
11	(A) The costs are not reimbursable by insurance
12	proceeds or disaster relief payments from
13	government agencies or non-profit
14	organizations; and
15	(B) No refund as provided in subsection (f) or
16	payment on account of the tax credit allowed
17	by this Act shall be made for amounts less
18	than \$1.
19	(c) The tax credit shall apply to a taxpayer who suffered
20	damage to the taxpayer's real or personal property that is
21	situated in the state, having occurred on October 15, 2006.



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1 (đ) To qualify for the income tax credit, the taxpayer shall certify to the department of taxation that the taxpayer is 2 in compliance with all applicable federal, state, and county 3 statutes, rules, and regulations. 4 (e) To qualify for the income tax credit, the taxpayer 5 shall sign a statement and provide information determined by the 6 department of taxation as necessary to claim the credit under 7 8 penalties of perjury. If the tax credit under this section exceeds the 9 (f) taxpayer's net income tax liability, any excess of the tax 10 credit may be used as a credit against the taxpayer's income tax 11 liability for the taxable year the credit is claimed; provided 12 that tax credits properly claimed by a taxpayer shall be 13 14 refunded to the taxpayer after being credited against the taxpayer's income tax liability for the taxable year, if the 15 taxpayer gualifies under one of the following tests: 16 (1) All of the taxpayer's income is exempt from taxation 17 18 under section 235-7(a)(2) or section 235-7(a)(3), Hawaii Revised Statutes; or 19 20 The taxpayer's adjusted gross income is \$20,000 or (2) 21 less.



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(g) In the case of a partnership, S corporation, estate,
 trust, or association of apartment owners, the tax credit
 allowable is for expenses incurred and paid for by the entity
 for the taxable year. The cost upon which the tax credit is
 computed shall be determined at the entity level.

6 (h) If a deduction is taken under section 179 (with
7 respect to election to expense certain depreciable business
8 assets) of the Internal Revenue Code of 1986, as amended, no tax
9 credit shall be allowed for that portion of the expenses for
10 which the deduction is taken.

11 The basis of property shall not be increased by any amount 12 for which the credit is allowable and claimed. In the 13 alternative, the taxpayer shall treat the amount of the credit 14 allowable and claimed as a taxable income item for the taxable 15 year in which it is properly recognized under the method of 16 accounting used to compute taxable income.

17 (i) No taxpayer who claims the tax credit under this
18 section shall claim any other credit or deduction for the same
19 losses or other expenses or costs.

(j) Every claim, including amended claims, for the tax
credit under this section shall be filed on or before
December 31, 2007. Failure to meet the filing requirements of



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this subsection shall constitute a waiver of the right to claim
 the tax credit.

3 If at any time after claiming the tax credit, the (k) 4 taxpayer no longer qualifies for the credit because of 5 subsequent recovery for expenses used to calculate the credit, 6 the credits claimed shall be recaptured. The recapture shall be 7 equal to one hundred per cent of the tax credits that were 8 subsequently ineligible as a result of later recovery. The amount of the recaptured tax credits shall be added to the 9 10 taxpayer's tax liability for the taxable year in which the 11 recapture occurs.

(1) In the case of fraud, making of a false statement, or willful disregard for the facts, associated with making a return or otherwise claiming the tax credit, there shall be added to the amount wrongfully claimed on a return a penalty of fifty per cent of the amount of such credit claimed.

(m) The director of taxation shall prepare any forms as may be necessary to claim a tax credit under this section, may require proof of the claim for the tax credit, and may adopt rules without regard to chapter 91, Hawaii Revised Statutes, to effectuate the purposes of this section.



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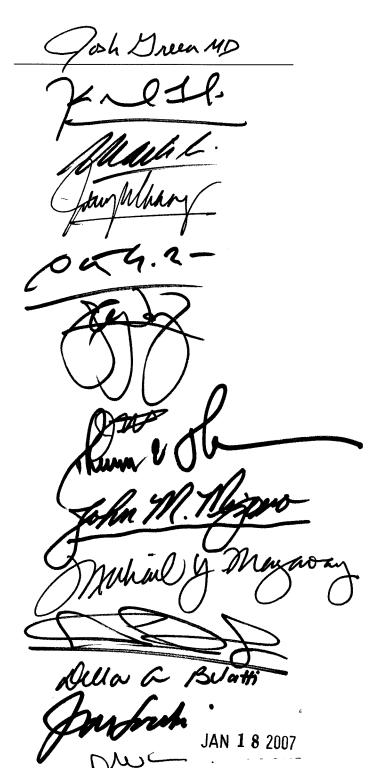
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SECTION 3. This Act, upon its approval, shall apply to
 taxable years beginning after December 31, 2005, and ending
 before January 1, 2007.

INTRODUCED BY:





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Report Title:

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Tax credit; Damage from the earthquakes on October 15, 2006.

Description:

Provides a tax credit for damage caused by the earthquakes of October 15, 2006.

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