
A BILL FOR AN ACT

RELATING TO LAND CONSERVATION.

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

1 SECTION 1. The purpose of this Act is to provide a land
2 conservation incentives tax credit to encourage the preservation
3 and protection of land in the state.

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

7 "§235- Land conservation incentives tax credit;
8 definitions. (a) There shall be allowed to every eligible
9 taxpayer a land conservation incentives tax credit that shall be
10 deductible from the taxpayer's net income tax liability imposed
11 by this chapter for taxable years beginning on or after January
12 1, 2008; provided that a husband and wife filing separate
13 returns for a taxable year for which a joint return could have
14 been filed by them shall claim only the tax credit to which they
15 would have been entitled had a joint return been filed.

16 (b) The tax credit shall apply to an eligible taxpayer
17 who:



1 (1) Donates land in perpetuity or completes a bargain sale
2 in perpetuity to the State or public or private
3 conservation agency that fulfills a conservation or
4 preservation purpose; provided that any donation or
5 sale that represents a less-than-fee interest
6 qualifies as a charitable contribution deduction under
7 Section 170(h) of the Internal Revenue Code of 1986,
8 as amended; or

9 (2) Voluntarily invests in the management of land to
10 protect or enhance a conservation or preservation
11 purpose under a land protection agreement,
12 conservation management agreement, or other legal
13 instrument that is consistent with a conservation or
14 preservation purpose.

15 (c) Donations of land for open space for the purpose of
16 fulfilling density requirements to obtain subdivision or
17 building permits do not qualify for the land conservation
18 incentives tax credit.

19 (d) The amount of the tax credit shall be:

20 (1) Fifty per cent of the fair market value of the land or
21 interest in land that an eligible taxpayer donates in
22 perpetuity on or after January 1, 2008, for a



1 conservation or preservation purpose to the State, or
2 public or private conservation agency; or

3 (2) Fifty per cent of the amount invested in the
4 management of land pursuant to subsection (c) (2).

5 (e) The amount of the tax credit shall not exceed
6 \$2,500,000 per donation regardless of the value of the land or
7 interest in land; provided that if the tax credit under this
8 section exceeds the taxpayer's net income tax liability under
9 this chapter, any excess of the tax credit over liability may be
10 used as a credit against the taxpayer's income tax liability in
11 subsequent taxable years until exhausted.

12 An eligible taxpayer may claim the land conservation
13 incentives tax credit only once per taxable year.

14 (f) The tax credit claimed by a pass-through tax entity
15 may be used either by the pass-through tax entity or a member,
16 manager, partner, shareholder, or beneficiary of the pass-
17 through entity, in proportion to the total interest of the
18 member, manager, partner, shareholder, or beneficiary; provided
19 that:

20 (1) There is in fact a pass-through; and

1 (2) The tax credit may be claimed only once by either the
2 pass-through entity or the member, manager, partner,
3 shareholder, or beneficiary, but not both.

4 (g) Every claim, including amended claims, for the tax
5 credit under this section shall be filed on or before the end of
6 the twelfth month following the close of the taxable year for
7 which the tax credit may be claimed. Failure to meet the filing
8 requirements of this subsection shall constitute a waiver of the
9 right to claim the tax credit.

10 (h) The director of taxation:

11 (1) Shall prepare forms necessary to claim a tax credit
12 under this section;

13 (2) May require proof of the claim for the tax credit; and

14 (3) May adopt rules pursuant to chapter 91 to effectuate
15 the purposes of this section.

16 (i) The chairperson of the board of land and natural
17 resources may adopt rules pursuant to chapter 91 to effectuate
18 this section.

19 (j) As used in this section:

20 "Bargain sale" means a sale where a taxpayer is paid less
21 than the fair market value for land or an interest in land.

22 "Conservation or preservation purpose" means:



- 1 (1) Protection of open space for scenic values;
- 2 (2) Protection of natural areas for wildlife habitat,
- 3 biological diversity, or native forest cover;
- 4 (3) Preservation of forest land, agricultural land,
- 5 watersheds, streams, rainfall infiltration areas,
- 6 outdoor recreation including hiking, biking and
- 7 walking trails, and historic or cultural property;
- 8 provided that the resources or areas protected or preserved are
- 9 designated as significant or important by a relevant state
- 10 agency.

11 "Cultural property" means a structure, place, site, or

12 object having historic, archaeological, scientific,

13 architectural, or cultural significance.

14 "Eligible taxpayer":

- 15 (1) Means a Hawaii taxpayer who is not claimed or is not
- 16 otherwise eligible to be claimed as a dependent by
- 17 another taxpayer for federal or Hawaii state
- 18 individual income tax purposes; and
- 19 (2) Includes individuals, corporations, or pass-through
- 20 tax entities such as trusts, estates, partnerships,
- 21 limited liability companies or partnerships, S
- 22 corporations, or other fiduciaries.



1 "Interest in land or real property" means a right in real
2 property, including access, improvement, water right, fee simple
3 interest, easement, land use easement, partial interest in real
4 property, mineral right, remainder or future interest, or other
5 interest or right in real property that complies with the
6 requirements of Section 170(h)(2) of the Internal Revenue Code
7 of 1986, as amended.

8 "Land" means real property, including rights of way,
9 easements, privileges, water rights, and all other rights or
10 interests related to real property.

11 "Public or private conservation agency" means a
12 governmental body or a private nonprofit charitable corporation
13 or trust authorized to do business in the state that is
14 organized and operated for natural resources, land, or historic
15 conservation purposes and that has tax-exempt status as a public
16 charity under Section 501(c)(3) of the Internal Revenue Code of
17 1986, as amended, and has the power to acquire, hold, or
18 maintain land or interests in land."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon approval, and
21 shall apply to taxable years beginning after December 31, 2007.



S.B. NO. 2198
S.D. 2
H.D. 1

Report Title:

Tax Credit; Land Conservation

Description:

Provides a tax credit to encourage the preservation and protection of conservation land in the state. (SB2198 HD1)

SB2198 HD1 HMS 2008-3217

