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# A BILL FOR AN ACT

RELATING TO A NEW MARKETS TAX CREDIT.

**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-    New markets tax credit. (a) Section 45D (with  
5 respect to new markets tax credit) of the Internal Revenue Code  
6 shall be operative for the purposes of this chapter, except as  
7 otherwise provided in this section.

8           (b) Each taxpayer subject to the tax imposed by this  
9 chapter who holds a qualified equity investment on a credit  
10 allowance date of that investment, which occurs during the  
11 taxable year, and is made through a qualified community  
12 development entity that has received an allocation of credit  
13 under section 45D of the Internal Revenue Code, may claim a  
14 credit against the taxpayer's net income tax liability for the  
15 taxable year. The amount of the credit shall be deductible from  
16 the taxpayer's net income tax liability, if any, imposed by this



1 chapter for the taxable year in which the credit is properly  
2 claimed on a timely basis.

3 (c) The amount of the credit shall be \_\_\_\_\_ per cent of the  
4 applicable percentage of the amount paid to the qualified  
5 community development entity, as defined in section 45D(c) of  
6 the Internal Revenue Code, and located in Hawaii, for the  
7 qualified investment in Hawaii at its original issue. As used  
8 in this section:

9 "Applicable percentage" means:

- 10 (1) Five per cent with respect to the first three credit
- 11 allowance dates; and
- 12 (2) Six per cent with respect to the remainder of the
- 13 credit allowance dates.

14 "Credit allowance date" means with respect to any qualified  
15 equity investment, the date on which the investment is initially  
16 made, and each of the six yearly anniversary dates of such date  
17 thereafter.

18 (d) The total amount of credits taken under this section  
19 shall not exceed \$ \_\_\_\_\_ per taxable year. The claim for a  
20 new markets tax credit shall be submitted to the department of  
21 taxation on forms established by the director.



1       (e) The credit allowed under this section shall be claimed  
2 against net income tax liability for the taxable year. For the  
3 purpose of deducting this tax credit, "net income tax liability"  
4 means net income tax liability reduced by all other credits  
5 allowed the taxpayer under this chapter.

6       A tax credit under this section that exceeds the taxpayer's  
7 net income tax liability may be used as a credit against the  
8 taxpayer's income tax liability in subsequent years until  
9 exhausted.

10       All claims for a tax credit under this section shall be  
11 filed on or before the end of the twelfth month following the  
12 close of the taxable year for which the credit may be claimed.  
13 Failure to properly and timely claim the credit shall constitute  
14 a waiver of the right to claim the credit.

15       Section 469 (with respect to passive activity losses and  
16 credits limited) of the Internal Revenue Code shall be applied  
17 in claiming the credit under this section.

18       (f) The director of taxation may adopt rules under chapter  
19 91 and prepare any forms necessary to carry out this section.

20       (g) The director of taxation shall report to the  
21 legislature twenty days prior to the regular session of 2008 and



1 annually thereafter on the credits taken under this section and  
2 any other information deemed appropriate by the director."

3 SECTION 2. Chapter 241, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§241- New markets; income tax credit. The new markets  
7 tax credit provided under section 235- shall be operative  
8 for this chapter."

9 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
10 amended by adding a new section to article 7 to be appropriately  
11 designated and to read as follows:

12 "§431:7- New markets; insurance premium tax credit. The  
13 new markets tax credit provided under section 235- shall be  
14 operative for this chapter and may be claimed against the tax  
15 imposed under section 431:7-202."

16 SECTION 4. Section 235-2.3, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) The following Internal Revenue Code subchapters,  
19 parts of subchapters, sections, subsections, and parts of  
20 subsections shall not be operative for the purposes of this  
21 chapter, unless otherwise provided:



- 1           (1) Subchapter A (sections 1 to 59A) (with respect to  
2           determination of tax liability), except section  
3           1(h)(2) (relating to net capital gain reduced by the  
4           amount taken into account as investment income),  
5           except sections 2(a), 2(b), and 2(c) (with respect to  
6           the definition of "surviving spouse" and "head of  
7           household"), except section 41 (with respect to the  
8           credit for increasing research activities), except  
9           section 42 (with respect to low-income housing  
10          credit), except section 45D (with respect to new  
11          markets tax credit), and except sections 47 and 48, as  
12          amended, as of December 31, 1984 (with respect to  
13          certain depreciable tangible personal property). For  
14          treatment, see sections 235-110.91, 235-110.7, [~~and~~]  
15          235-110.8[+], and section 235- ;  
16          (2) Section 78 (with respect to dividends received from  
17          certain foreign corporations by domestic corporations  
18          choosing foreign tax credit);  
19          (3) Section 86 (with respect to social security and tier 1  
20          railroad retirement benefits);  
21          (4) Section 103 (with respect to interest on state and  
22          local bonds). For treatment, see section 235-7(b);



- 1 (5) Section 114 (with respect to extraterritorial income).  
2 For treatment, any transaction as specified in the  
3 transitional rule for 2005 and 2006 as specified in  
4 the American Jobs Creation Act of 2004 section 101(d)  
5 and any transaction that has occurred pursuant to a  
6 binding contract as specified in the American Jobs  
7 Creation Act of 2004 section 101(f) are inoperative;
- 8 (6) Section 120 (with respect to amounts received under  
9 qualified group legal services plans). For treatment,  
10 see section 235-7(a)(9) to (11);
- 11 (7) Section 122 (with respect to certain reduced uniformed  
12 services retirement pay). For treatment, see section  
13 235-7(a)(3);
- 14 (8) Section 135 (with respect to income from United States  
15 savings bonds used to pay higher education tuition and  
16 fees). For treatment, see section 235-7(a)(1);
- 17 (9) Subchapter B (sections 141 to 150) (with respect to  
18 tax exemption requirements for state and local bonds);
- 19 (10) Section 151 (with respect to allowance of deductions  
20 for personal exemptions). For treatment, see section  
21 235-54;



- 1 (11) Section 179B (with respect to expensing of capital  
2 costs incurred in complying with Environmental  
3 Protection Agency sulphur regulations);
- 4 (12) Section 181 (with respect to special rules for certain  
5 film and television productions);
- 6 (13) Section 196 (with respect to deduction for certain  
7 unused investment credits);
- 8 (14) Section 199 (with respect to the U.S. production  
9 activities deduction);
- 10 (15) Section 222 (with respect to qualified tuition and  
11 related expenses);
- 12 (16) Sections 241 to 247 (with respect to special  
13 deductions for corporations). For treatment, see  
14 section 235-7(c);
- 15 (17) Section 280C (with respect to certain expenses for  
16 which credits are allowable). For treatment, see  
17 section 235-110.91;
- 18 (18) Section 291 (with respect to special rules relating to  
19 corporate preference items);
- 20 (19) Section 367 (with respect to foreign corporations);
- 21 (20) Section 501(c)(12), (15), (16) (with respect to exempt  
22 organizations);



- 1 (21) Section 515 (with respect to taxes of foreign  
2 countries and possessions of the United States);
- 3 (22) Subchapter G (sections 531 to 565) (with respect to  
4 corporations used to avoid income tax on  
5 shareholders);
- 6 (23) Subchapter H (sections 581 to 597) (with respect to  
7 banking institutions), except section 584 (with  
8 respect to common trust funds). For treatment, see  
9 chapter 241;
- 10 (24) Section 642(a) and (b) (with respect to special rules  
11 for credits and deductions applicable to trusts). For  
12 treatment, see sections 235-54(b) and 235-55;
- 13 (25) Section 646 (with respect to tax treatment of electing  
14 Alaska Native settlement trusts);
- 15 (26) Section 668 (with respect to interest charge on  
16 accumulation distributions from foreign trusts);
- 17 (27) Subchapter L (sections 801 to 848) (with respect to  
18 insurance companies). For treatment, see sections  
19 431:7-202 and 431:7-204;
- 20 (28) Section 853 (with respect to foreign tax credit  
21 allowed to shareholders). For treatment, see section  
22 235-55;





- 1       (29) Subchapter N (sections 861 to 999) (with respect to  
2           tax based on income from sources within or without the  
3           United States), except sections 985 to 989 (with  
4           respect to foreign currency transactions). For  
5           treatment, see sections 235-4, 235-5, and 235-7(b),  
6           and 235-55;
- 7       (30) Section 1042(g) (with respect to sales of stock in  
8           agricultural refiners and processors to eligible farm  
9           cooperatives);
- 10       (31) Section 1055 (with respect to redeemable ground  
11           rents);
- 12       (32) Section 1057 (with respect to election to treat  
13           transfer to foreign trust, etc., as taxable exchange);
- 14       (33) Sections 1291 to 1298 (with respect to treatment of  
15           passive foreign investment companies);
- 16       (34) Subchapter Q (sections 1311 to 1351) (with respect to  
17           readjustment of tax between years and special  
18           limitations);
- 19       (35) Subchapter R (sections 1352 to 1359) (with respect to  
20           election to determine corporate tax on certain  
21           international shipping activities using per ton rate);



- 1       (36) Subchapter U (sections 1391 to 1397F) (with respect to
- 2            designation and treatment of empowerment zones,
- 3            enterprise communities, and rural development
- 4            investment areas). For treatment, see chapter 209E;
- 5       (37) Subchapter W (sections 1400 to 1400C) (with respect to
- 6            District of Columbia enterprise zone);
- 7       (38) Section 14000 (with respect to education tax
- 8            benefits);
- 9       (39) Section 1400P (with respect to housing tax benefits);
- 10       (40) Section 1400R (with respect to employment relief); and
- 11       (41) Section 1400T (with respect to special rules for
- 12            mortgage revenue bonds)."

13       SECTION 5. Section 235-2.45, Hawaii Revised Statutes, is  
 14 amended by amending subsection (d) to read as follows:

15       "(d) Section 704 of the Internal Revenue Code (with  
 16 respect to a partner's distributive share) shall be operative  
 17 for purposes of this chapter; except that section 704(b)(2)  
 18 shall not apply to:

- 19       (1) Allocations of the high technology business investment
- 20            tax credit allowed by section 235-110.9;
- 21       (2) Allocations of net operating loss pursuant to section
- 22            235-111.5;



1 (3) Allocations of the attractions and educational  
2 facilities tax credit allowed by section 235-110.46;

3 [~~or~~]

4 (4) Allocations of low-income housing tax credits among  
5 partners under section 235-110.8~~[+]~~; or

6 (5) Allocations of new market tax credits among partners  
7 under section 235- ."

8 SECTION 6. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2020, and  
11 shall be repealed on December 31, 2010.



**Report Title:**

Tax Credit; New Markets

**Description:**

Provides a new markets tax credit of        percent of the amount paid to a qualified community development entity located in Hawaii to make a qualified equity investment. Requires taxpayer to have received an allowance of credit under section 45D of the Internal Revenue Code, the federal new markets tax credit. Effective July 1, 2020. Sunset December 31, 2010. (SB707 HD2)

