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# 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, Hawaii Revised  
9 Statutes.

10           (b) The amount of the tax credit shall be equal to the  
11 amount expended by the taxpayer for costs directly related to  
12 the damage directly caused by the earthquakes occurring on the  
13 dates specified in subsection (c) to the taxpayer's real or  
14 personal property; provided that:

15           (1) The expenses or costs are not reimbursable by  
16 insurance proceeds or disaster relief payments from  
17 government agencies or non-profit organizations;



1           (2) The tax credit shall not exceed \$10,000 per individual  
2           taxpayer;

3           (3) The tax credit shall not exceed \$250,000 per trust,  
4           estate, partnership, association, company, or  
5           corporation; and

6           (4) No refund as provided in subsection (e) or payment on  
7           account of the tax credit allowed by this Act shall be  
8           made for amounts less than \$1.

9           (c) The tax credit shall apply to a taxpayer who suffered  
10          damage to the taxpayer's real or personal property that is  
11          situated in the State, having occurred on October 15, 2006.

12          (d) To qualify for the income tax credit, the taxpayer  
13          shall sign a statement and provide information determined by the  
14          department of taxation as necessary to claim the credit under  
15          penalties of perjury.

16          (e) If the tax credit under this section exceeds the  
17          taxpayer's net income tax liability, any excess of the tax  
18          credit may be used as a credit against the taxpayer's income tax  
19          liability in subsequent taxable years until exhausted; provided  
20          that tax credits properly claimed by a taxpayer shall be  
21          refunded to the taxpayer after being credited against the



1 taxpayer's income tax liability for the taxable year, if the  
2 taxpayer qualifies under one of the following tests:

3 (1) All of the taxpayer's income is exempt from taxation  
4 under section 235-7(a)(2) or 235-7(a)(3), Hawaii  
5 Revised Statutes; or

6 (2) The taxpayer's adjusted gross income is \$20,000 or  
7 less.

8 (f) 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.

13 (g) 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 (h) 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 (i) 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 (j) 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 utilized to calculate the  
14 credit, the credit claimed shall be recaptured. The recapture  
15 shall be equal to one hundred per cent of the amount of the tax  
16 credit that was subsequently ineligible as a result of later  
17 recovery. The amount of the recaptured tax credit shall be  
18 added to the taxpayer's tax liability for the taxable year in  
19 which the recapture occurs.

20 (k) 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



1 the amount wrongfully claimed on a return a penalty of fifty per  
2 cent of the amount of the credit claimed.

3 (1) The director of taxation shall prepare any forms that  
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, Hawaii Revised Statutes, to  
7 effectuate the purposes of this section.

8 SECTION 2. Pursuant to section 328L-3, Hawaii Revised  
9 Statutes, the legislature hereby makes the required declaration  
10 of findings and purposes that appropriations made under this Act  
11 from the emergency and budget reserve fund are necessary for the  
12 purpose of restoring facilities destroyed or damaged or services  
13 disrupted by disaster in any county and to meet emergencies that  
14 have been determined by the legislature to be urgent.

15 SECTION 3. There is appropriated out of the emergency and  
16 budget reserve fund the sum of \$400,000 or so much thereof as  
17 may be necessary for fiscal year 2006-2007 for the natural  
18 energy laboratory of Hawaii authority to do emergency repairs to  
19 eighteen inch and forty inch deep water pipelines.

20 The sum appropriated shall be expended by the department of  
21 business, economic development, and tourism for the purposes of  
22 this Act.



1 SECTION 4. There is appropriated out of the emergency and  
2 budget reserve fund the sum of \$1,500,000 or so much thereof as  
3 may be necessary for fiscal year 2006-2007 for the restoration  
4 of Hulihe'e Palace in Kailua-Kona, Hawaii from damages caused by  
5 October 15, 2006 earthquakes.

6 The sum appropriated shall be expended by the department of  
7 land and natural resources for the purposes of this Act.

8 SECTION 5. This Act shall take effect January 1, 2035, and  
9 shall apply to the taxable year beginning after December 31,  
10 2034, and before January 1, 2036.



**Report Title:**

Disaster Relief; Tax Credit for Earthquake Victims

**Description:**

Creates a one-time tax credit for victims of the October 15, 2006 earthquakes. Makes appropriations out of the emergency and budget reserve fund. (HD1)

