

JAN 18 2008

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# A BILL FOR AN ACT

RELATING TO TAXATION.

**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-     Credit for hazard-prone property. (a) There  
5 shall be allowed to each taxpayer subject to the tax imposed by  
6 this chapter, a credit for donating hazard-prone property to a  
7 public entity, or private non-profit land trust, for a permanent  
8 non-developmental purpose that is related to a public use.

9           (b) The credit allowed under this section shall be claimed  
10 against the taxpayer's net income tax liability, if any, imposed  
11 by this chapter for the taxable year in which the credit is  
12 properly claimed.

13           (c) The amount of the credit under this section shall be  
14 equal to one hundred fifty per cent of the assessed land value  
15 of the hazard-prone property that is properly donated by the  
16 taxpayer.



1        (d) For purposes of this section, the following term shall  
2 have the following meaning:

3        "Hazard-prone property" means property that, after  
4 consideration of all the facts and circumstances, cannot be  
5 meaningfully developed. The determination of whether the  
6 property can be meaningfully developed shall, at a minimum,  
7 include an examination of the following:

- 8        (1) The physical dimensions of the property;
- 9        (2) The ability to maintain adequate flood zone setbacks  
10        on the property;
- 11        (3) The existing beneficial use of the property to the  
12        public;
- 13        (4) The feasibility of the property to be preserved as  
14        undeveloped open space in perpetuity;
- 15        (5) The property's inherit vulnerability to natural  
16        hazards;
- 17        (6) The likelihood that a property owner would need to  
18        create structures on the property to mitigate natural  
19        hazards;
- 20        (7) The existence of public easements on the property;



- 1       (8) The existence of land constraints that would preclude  
2       development in the absence of extraordinary structural  
3       mitigation measures;
- 4       (9) The likelihood that development would create a public  
5       nuisance;
- 6       (10) The likelihood that development would alienate public  
7       rights protected in chapter 205, including public  
8       access to and along the beach;
- 9       (11) The likelihood that development of the property would  
10       be a detriment to any of the following:
  - 11       (A) The safety of the public;
  - 12       (B) The pursuit of recreational opportunities; or
  - 13       (C) The enjoyment of scenic vistas;
- 14       (12) The likelihood that development of the property would  
15       endanger protected wildlife, including native plant  
16       species and aquatic animals; and
- 17       (13) The degree of geological instability of the property  
18       due to erosion, flooding, ocean waves, streams,  
19       groundwater hydrology, or physical alterations.
- 20       (e) All claims for tax credits under this section,  
21       including any amended claims, shall be filed on or before the  
22       end of the twelfth month following the close of the taxable year



1 for which the credits may be properly claimed. Failure to  
2 comply with the foregoing provision shall constitute a waiver of  
3 the right to claim the credit.

4 (f) If the tax credit under this section exceeds the  
5 taxpayer's net income tax liability under this chapter, any  
6 excess of the tax credit may be used as a credit against the  
7 taxpayer's income tax liability in subsequent taxable years  
8 until exhausted.

9 (g) The director of taxation may adopt any rules under  
10 chapter 91 and forms necessary to carry out this section."

11 SECTION 2. New statutory material is underscored.

12 SECTION 3. This Act, upon its approval, shall apply to  
13 taxable years beginning after December 31, 2007.

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INTRODUCED BY:

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**Report Title:**

Taxation; Land Donation; Hazard-prone Property

**Description:**

Provides an enhanced tax credit for owners who donate their hazard-prone property to a public entity, or private non-profit land trust, for a permanent non-developmental purpose that is related to a public use.

