

JAN 18 2008

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- Historic preservation income tax credit (a)

5 Any law to the contrary notwithstanding, there shall be allowed
6 to each taxpayer subject to the taxes imposed by this chapter,
7 an income tax credit, which shall be deductible from the
8 taxpayer's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which the tax credit is properly
10 claimed. For each rehabilitation plan accepted by the review
11 board, the amount of tax credit shall be:

12 (1) Twenty-five per cent of the projected qualified
13 rehabilitation expenditures; or

14 (2) Thirty per cent of the projected qualified
15 expenditures for rehabilitation plans if:

16 (A) At least twenty per cent of the units are rental
17 units and qualify as affordable housing; or



1 (B) At least ten per cent of the units are individual
2 homeownership units and qualify as affordable
3 housing.

4 (b) The tax credit allowed under this section shall be
5 available in the tax year in which the substantially
6 rehabilitated historic structure is placed in service. In the
7 case of projects completed in phases, the tax credit shall be
8 prorated to the substantially rehabilitated identifiable portion
9 of the building placed in service.

10 (c) In the case of a partnership, S corporation, estate,
11 trust, or any developer of a rehabilitated historic structure,
12 the tax credit allowable shall be as provided under subsection
13 (b) for the taxable year. The cost upon which the tax credit is
14 computed shall be determined at the entity level and the
15 distribution and share of the tax credit shall be determined
16 pursuant to section 235-110.7(a).

17 (d) If the tax credit under this section exceeds the
18 taxpayer's income liability, the excess of credits over
19 liability shall be refunded to the taxpayer; provided that no
20 refunds or payment on account of the tax credits allowed by this
21 section shall be made for amount less than \$1. All claims,
22 including any amended claims, for tax credits under this section



1 shall be filed on or before the end of the twelfth month
2 following the close of the taxable year for which the credit may
3 be claimed. Failure to comply with the foregoing provision
4 shall constitute a waiver of the right to claim the credit.

5 (e) To qualify for this tax credit, the review board shall
6 develop standards and criteria for the approval of
7 rehabilitation of certified historic structures for which the
8 credit is sought. These standards and criteria shall take into
9 account whether the rehabilitation of a certified historic
10 structure will preserve the historic character of the building.

11 (f) Following the completion of rehabilitation of a
12 certified historic structure, the owner shall notify the review
13 board that the rehabilitation has been completed. The owner
14 shall provide the review board with documentation of the costs
15 incurred in rehabilitating the historic structure and shall
16 submit certification of the costs incurred in rehabilitating the
17 historic structure. The review board shall review the
18 rehabilitation and verify its compliance with the rehabilitation
19 plan.

20 (g) The director of taxation shall prepare forms as may be
21 necessary to claim a credit under this section. The director
22 may also require the taxpayer to furnish information to



1 ascertain the validity of the claim for credit made under this
2 section and may adopt rules necessary to effectuate the purposes
3 of this section pursuant to chapter 91.

4 (h) The aggregate amount of tax credits claimed for
5 qualified rehabilitation projects shall not exceed \$50,000,000
6 per year.

7 (i) The review board, in consultation with the department
8 of taxation, shall determine the types of information that are
9 necessary on an annual basis to enable a quantitative and
10 qualitative assessment of the outcomes of the tax credit to be
11 determined. Every taxpayer, no later than the last day of the
12 taxable year following the close of the taxpayer's taxable year
13 in which qualified costs were expended, shall submit a written,
14 certified statement to the review board.

15 Any taxpayer failing to submit information to the review
16 board in the manner prescribed by the review board prior to the
17 last day of the taxable year following the close of the
18 taxpayer's taxable year in which qualified costs were expended
19 shall not be eligible to receive the tax credit, and any credit
20 already claimed for that taxable year shall be recaptured in
21 total. The amount of the recaptured tax credit shall be added



1 to the taxpayer's tax liability for the taxable year in which
2 the recapture occurs.

3 Notwithstanding any law to the contrary, a statement
4 submitted under this subsection shall be a public document.

5 (j) On an annual basis, the review board, in consultation
6 with the department of taxation, shall submit a report
7 evaluating the effectiveness of the tax credit. The report
8 shall include but not be limited to findings and recommendations
9 to improve the effectiveness of the tax credit to further
10 encourage the rehabilitation of historic properties.

11 (k) For the purposes of this section:

12 "Rehabilitation plan" means any construction plans and
13 specifications for the proposed rehabilitation of a historic
14 structure in sufficient detail for evaluation by compliance with
15 the standards and criteria developed by the review board.

16 "Review board" shall mean the Hawaii historic places review
17 board under section 6E-5.5.

18 "Qualified rehabilitation expenditures" means any costs
19 incurred for the physical construction involved in the
20 rehabilitation of a historic structure for mixed residential and
21 nonresidential uses where at least thirty per cent of the total



1 square footage of the rehabilitation is placed into service for
2 residential use, excluding:

- 3 (1) The owner's personal labor;
- 4 (2) The cost of a new addition, except as required to
5 comply with the applicable county building code or
6 fire safety code; and
- 7 (3) Any non-construction cost such as architectural fees,
8 legal fees, and financing fees.

9 "Substantial rehabilitation" means the qualified
10 rehabilitation expenditures of a historic structure that exceed
11 twenty-five per cent of the assessed value of the structure."

12 SECTION 2. New statutory material is underscored.

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

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INTRODUCED BY: *Russell Folt*

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Report Title:

Historic Preservation; Tax Credit

Description:

Establishes tax credit for the rehabilitation of historic structures.

