

---

---

# 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 qualified  
11 staff of the state historic preservation division qualified  
12 staff, the amount of tax credit shall be:

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

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



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

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

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

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

19           (d) If the tax credit under this section exceeds the  
20           taxpayer's income liability, the excess of credits over  
21           liability shall be refunded to the taxpayer; provided that no  
22           refunds or payment on account of the tax credits allowed by this



1 section shall be made for amount less than \$1. All claims,  
2 including any amended claims, for tax credits under this section  
3 shall be filed on or before the end of the twelfth month  
4 following the close of the taxable year for which the credit may  
5 be claimed. Failure to comply with the foregoing provision  
6 shall constitute a waiver of the right to claim the credit.

7 (e) To qualify for this tax credit, qualified staff of the  
8 state historic preservation division shall develop standards and  
9 criteria for the approval of rehabilitation of certified  
10 historic structures for which the credit is sought. These  
11 standards and criteria shall take into account whether the  
12 rehabilitation of a certified historic structure will preserve  
13 the historic character of the building.

14 (f) Following the completion of rehabilitation of a  
15 certified historic structure, the owner shall notify the state  
16 historic preservation division that the rehabilitation has been  
17 completed. The owner shall provide the state historic  
18 preservation division with documentation of the costs incurred  
19 in rehabilitating the historic structure and shall submit  
20 certification of the costs incurred in rehabilitating the  
21 historic structure. Qualified staff of the state historic



1 preservation division shall review the rehabilitation and verify  
2 its compliance with the rehabilitation plan.

3 (g) The director of taxation shall prepare forms as may be  
4 necessary to claim a credit under this section. The director  
5 may also require the taxpayer to furnish information to  
6 ascertain the validity of the claim for credit made under this  
7 section and may adopt rules necessary to effectuate the purposes  
8 of this section pursuant to chapter 91.

9 (h) The aggregate amount of tax credits claimed for  
10 qualified rehabilitation projects shall not exceed \$ \_\_\_\_\_ per  
11 year and the review board shall be required to monitor, and  
12 inform the department of taxation, of the annual projected  
13 credit amount.

14 (i) The state historic preservation division, in  
15 consultation with the department of taxation, shall determine  
16 the types of information that are necessary on an annual basis  
17 to enable a quantitative and qualitative assessment of the  
18 outcomes of the tax credit to be determined. Every taxpayer, no  
19 later than the last day of the taxable year following the close  
20 of the taxpayer's taxable year in which qualified costs were  
21 expended, shall submit a written, certified statement to the  
22 review board.



1       Any taxpayer failing to submit information to the state  
2 historic preservation division in the manner prescribed by the  
3 state historic preservation division prior to the last day of  
4 the taxable year following the close of the taxpayer's taxable  
5 year in which qualified costs were expended shall not be  
6 eligible to receive the tax credit, and any credit already  
7 claimed for that taxable year shall be recaptured in total. The  
8 amount of the recaptured tax credit shall be added to the  
9 taxpayer's tax liability for the taxable year in which the  
10 recapture occurs.

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

13       (j) Recapture of a previously claimed credit shall be  
14 required by the taxpayer who received the credit if any of the  
15 following occur:

16       (1) The projected qualified expenditures do not  
17 materialize;

18       (2) If the qualified rehabilitation plans do not proceed  
19 in a timely manner and in accordance with the approved  
20 plans;



1       (3) In the case of the thirty per cent credit, less than  
2       twenty per cent of the units are rental units that  
3       qualify as affordable housing; or

4       (4) If less than ten per cent of the units are individual  
5       homeownership units that qualifying as affordable  
6       housing.

7       (k) On an annual basis, the state historic preservation  
8       division, in consultation with the department of taxation, shall  
9       submit a report evaluating the effectiveness of the tax credit.  
10      The report shall include but not be limited to findings and  
11      recommendations to improve the effectiveness of the tax credit  
12      to further encourage the rehabilitation of historic properties.

13      For the purposes of this section:

14      "Certified historic structure" means any structure that is:

15      (1) Listed individually in the Hawaii register of historic  
16      places or the national register of historic places; or

17      (2) Located in a registered historic district and  
18      certified by the state historic preservation division  
19      as contributing to the historic significance of the  
20      district.

21      "Qualified rehabilitation expenditures" means any costs  
22      incurred for the physical construction involved in the



1 rehabilitation of a historic structure for mixed residential and  
2 nonresidential uses where at least thirty per cent of the total  
3 square footage of the rehabilitation is placed into service for  
4 residential use, excluding:

5 (1) The owner's personal labor;

6 (2) The cost of a new addition, except as required to  
7 comply with the applicable county building code or  
8 fire safety code; and

9 (3) Any non-construction cost such as architectural fees,  
10 legal fees, and financing fees.

11 "Qualified staff of the state historic preservation  
12 division" means a staff member who meets the National Park  
13 Service Secretary of Interior standards for architectural  
14 historian or historic architect.

15 "Rehabilitation plan" means any construction plans and  
16 specifications for the proposed rehabilitation of a historic  
17 structure in sufficient detail for evaluation by compliance with  
18 the standards and criteria developed by the state historic  
19 preservation division.

20 "Substantial rehabilitation" means the qualified  
21 rehabilitation expenditures of a historic structure that exceed  
22 twenty-five per cent of the assessed value of the structure."



1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act, upon its approval, shall apply to

3 taxable years beginning after December 31, 2007.





**Report Title:**

Historic Preservation; Tax Credit

**Description:**

Establishes tax credit for the rehabilitation of historic structures. (SD1)

