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# A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING TAX CREDITS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§235-110.8 Low-income housing tax credit.** (a) Section  
4 42 (with respect to low-income housing tax credit) of the  
5 Internal Revenue Code shall be operative for the purposes of  
6 this chapter as provided in this section~~[-]~~, except as provided  
7 in subsections (h) and (i).

8           (b) Each taxpayer subject to the tax imposed by this  
9 chapter, who has filed ~~[+]~~a~~[+]~~ net income tax return for a  
10 taxable year may claim a low-income housing tax credit against  
11 the taxpayer's net income tax liability. The amount of the  
12 credit shall be deductible from the taxpayer's net income tax  
13 liability, if any, imposed by this chapter for the taxable year  
14 in which the credit is properly claimed on a timely basis. A  
15 credit under this section may be claimed whether or not the  
16 taxpayer claims a federal low-income housing tax credit pursuant  
17 to section 42 of the Internal Revenue Code.



1 (c) The low-income housing tax credit shall be fifty per  
2 cent of the applicable percentage of the qualified basis of each  
3 building located in Hawaii. The applicable percentage shall be  
4 calculated as provided in section 42(b) of the Internal Revenue  
5 Code.

6 (d) For the purposes of this section, the determination  
7 of:

- 8 (1) Qualified basis and qualified low-income building  
9 shall be made under section 42(c);
- 10 (2) Eligible basis shall be made under section 42(d);
- 11 (3) Qualified low-income housing project shall be made  
12 under section 42(g);
- 13 (4) Recapture of credit shall be made under section 42(j),  
14 except that the tax for the taxable year shall be  
15 increased under section 42(j)(1) only with respect to  
16 credits that were used to reduce state income taxes;
- 17 (5) Application of at-risk rules shall be made under  
18 section 42(k);

19 of the Internal Revenue Code.

20 (e) As provided in section 42(e), rehabilitation  
21 expenditures shall be treated as separate new building and their  
22 treatment under this section shall be the same as in section



1 42(e). The definitions and special rules relating to credit  
2 period in section 42(f) and the definitions and special rules in  
3 section 42(i) shall be operative for the purposes of this  
4 section.

5 (f) The state housing credit ceiling under section 42(h)  
6 shall be zero for the calendar year immediately following the  
7 expiration of the federal low-income housing tax credit program  
8 and for any calendar year thereafter, except for the carryover  
9 of any credit ceiling amount for certain projects in progress  
10 which, at the time of the federal expiration, meet the  
11 requirements of section 42.

12 (g) The credit allowed under this section shall be claimed  
13 against net income tax liability for the taxable year. For the  
14 purpose of deducting this tax credit, net income tax liability  
15 means net income tax liability reduced by all other credits  
16 allowed the taxpayer under this chapter.

17 A tax credit under this section which exceeds the  
18 taxpayer's income tax liability may be used as a credit against  
19 the taxpayer's income tax liability in subsequent years until  
20 exhausted. All claims for a tax credit under this section must  
21 be filed on or before the end of the twelfth month following the  
22 close of the taxable year for which the credit may be claimed.



1 Failure to properly and timely claim the credit shall constitute  
2 a waiver of the right to claim the credit. A taxpayer may claim  
3 a credit under this section only if the building or project is a  
4 qualified low-income housing building or a qualified low-income  
5 housing project under section 42 of the Internal Revenue Code.

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

9 (h) In the case of any qualified low-income housing  
10 project placed in service beginning on January 1, 2009, section  
11 42(b)(2)(B) of the Internal Revenue Code shall be modified as  
12 follows: the percentages prescribed by the Secretary for any  
13 month shall be percentages which will yield over a five-year  
14 period amounts of credit under subsection (a) which have present  
15 value equal to:

16 (1) Seventy per cent of the qualified basis of a building  
17 described in section 42(c)(1)(A) (with respect to  
18 low-income housing credit) of the Internal Revenue  
19 Code; and

20 (2) Thirty per cent of the qualified basis of a building  
21 described in section 42(c)(1)(B) (with respect to



1 low-income housing credit) of the Internal Revenue  
2 Code.

3 For the purposes of this subsection the state housing credit  
4 shall be one hundred per cent of the applicable percentage of  
5 the qualified basis of each building located in Hawaii; provided  
6 that the applicable percentage shall be calculated as provided  
7 in section 42(b) of the Internal Revenue Code.

8 (i) In the case of any qualified low-income housing  
9 project placed in service beginning on January 1, 2009, section  
10 42(f)(1) of the Internal Revenue Code shall be modified as  
11 follows: the term "credit period" means, with respect to any  
12 building, the period of five taxable years beginning with:

13 (1) The taxable year in which the building is placed in  
14 service; or

15 (2) At the election of the taxpayer, the succeeding  
16 taxable year;

17 provided that the building is a qualified low-income building as  
18 of the close of the first year of such period. The election  
19 under paragraph (2), once made, shall be irrevocable.

20 ~~(h)~~ (j) The director of taxation may adopt any rules  
21 under chapter 91 and forms necessary to carry out this section."



1 SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on January 1, 2009.



**Report Title:**

Low-Income Housing; Tax Credits

**Description:**

Reduces the period over which state low-income housing tax credits are taken from 10 years to 5 years. (SD2)

