
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 **PART I**

2 SECTION 1. In 1976, the Hawaii community development
3 authority was established to address long-term planning and
4 redevelopment needs in urban Honolulu, operating with broad
5 powers and state funding alternatives to accomplish what
6 existing planning and zoning laws could not do. At the same
7 time, the Hawaii community development authority was tasked with
8 addressing unmet community development needs that included,
9 among other things, "...insufficient commercial and industrial
10 facilities for rent...".

11 Under section 206E-31, the Kakaako community development
12 district was tasked with facilitating the development of a
13 mixed-use district in which industrial, commercial, residential,
14 and public uses would be able to coexist compatibly within the
15 same area. The Hawaii community development authority was
16 directed to "...respect and support the present function of
17 Kakaako as a major economic center, providing significant



1 employment in such areas as light industrial, wholesaling,
2 service and commercial activity."

3 The legislature finds that, within central Kakaako, the key
4 question is the extent to which light industrial and other
5 businesses located in this neighborhood will survive the
6 policies and market forces that are increasing their taxes at
7 double-digit rates. Central Kakaako's nearly one thousand five
8 hundred businesses - largely small businesses - generate
9 revenues of \$2,020,000,000 and employ over sixteen thousand
10 residents. Within that context, the one hundred fifty-four
11 light industrial, wholesaling, and other commercial businesses
12 in the Kakaako mauka area employ seven hundred thirty-two
13 people, with annual sales of \$56,300,000.

14 Since late 2006, small businesses in central Kakaako have
15 participated in a city-state planning project. The first phase
16 of the transit-oriented community-based development project has
17 focused on developing possible scenarios for social and economic
18 revitalization. As a result of their surveys, smaller group
19 meetings, and in-depth research, the study team has found that
20 there is an urgent need for both short-term action and a long-
21 term plan.



1 The purpose of this part is to fulfill the purposes of
2 chapter 206E, Hawaii Revised Statutes, that promoted small
3 business and light industrial development, by establishing a
4 state industrial use tax credit that offsets a portion of the
5 general excise tax imposed on small businesses.

6 SECTION 2. Chapter 206E, part II, Hawaii Revised Statutes,
7 is amended by adding a new section to be appropriately
8 designated and to read as follows:

9 "§206E- Industrial use; tax credit. Effective
10 January 1, , any business within the Kakaako community
11 development district that is located on real property designated
12 as an industrial district by the city and county of Honolulu
13 shall be allowed a tax credit that is equal to per cent of
14 the business's general excise tax liability under chapter 237,
15 as provided by section 235- ; provided that the real property
16 is in use for light industrial, wholesaling, or service and
17 commercial operations in the tax year in which the tax credit is
18 claimed and retains the industrial district designation in the
19 year following the tax year in which the tax credit is claimed."

20 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:



1 "§235- Kakaako community development district;
2 industrial use tax credit. (a) Any law to the contrary
3 notwithstanding, there shall be allowed to each taxpayer subject
4 to the taxes imposed by this chapter an income tax credit that
5 shall be deductible from the taxpayer's net income tax
6 liability, if any, imposed by this chapter for the taxable year
7 in which the credit is properly claimed.

8 (b) The amount of the credit shall be equal to per
9 cent of the taxpayer's general excise tax liability under
10 chapter 237 for any business within the Kakaako community
11 development district that is located on real property designated
12 as an industrial district by the city and county of Honolulu;
13 provided that the real property is in use for light industrial,
14 wholesaling, or service and commercial operations in the tax
15 year in which the tax credit is claimed and retains the
16 industrial district designation in the year following the tax
17 year in which the tax credit is claimed. The maximum allowable
18 credit that can be properly claimed in any taxable year shall
19 not exceed \$.

20 (c) If the tax credit under this section exceeds the
21 taxpayer's income tax liability, the excess of credits over
22 liability shall be refunded to the taxpayer; provided that no



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

8 (d) Recapture of a previously claimed credit shall be
9 required by the taxpayer who received the credit if:

10 (1) The previously qualified property is no longer
11 designated as I-1, limited industrial district, or I-2
12 intensive industrial district; or

13 (2) The previously qualified property is no longer used
14 for industrial or commercial purposes.

15 (e) In the case of a partnership, S corporation, estate,
16 trust, or any developer of a commercial building, the tax credit
17 allowable under this section shall be for a percentage of the
18 general excise tax liability owing and paid under chapter 237.
19 The cost upon which the tax credit is computed shall be
20 determined at the entity level.

21 (f) The director of taxation shall prepare forms as may be
22 necessary to claim a credit under this section. The director



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

5 (g) The tax credit allowed under this section shall be
6 available for taxable years beginning after December 31, ,
7 and shall not be available for taxable years beginning after
8 December 31, ."

9 **PART II**

10 SECTION 4. The purpose of this part is to provide the
11 Hawaii community development authority with greater flexibility
12 in implementing improvement district requirements for light
13 industrial neighborhoods in central Kakaako.

14 SECTION 5. Section 206E-6, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (b) to read:

17 "(b) Whenever the authority shall determine to undertake,
18 or cause to be undertaken, any public facility as part of the
19 district-wide improvement program, the cost of providing the
20 public facilities [~~shall~~] may be assessed against the real
21 property in the community development district specially
22 benefiting from [~~such~~] the public facilities. The authority



1 shall determine the areas of the community development district
2 [~~which~~] that will benefit from the public facilities to be
3 undertaken and, if less than the entire community development
4 district benefits, the authority may establish assessment areas
5 within the community development district. The authority may
6 issue and sell bonds in [~~such~~] amounts as may be authorized by
7 the legislature to provide funds to finance [~~such~~] public
8 facilities. The authority [~~shall~~] may fix the assessments
9 against real property specially benefited. All assessments made
10 pursuant to this section shall be a statutory lien against each
11 lot or parcel of land assessed from the date of the notice
12 declaring the assessment until paid and [~~such~~] the lien shall
13 have priority over all other liens except the lien of property
14 taxes. As between liens of assessments, the earlier lien shall
15 be superior to the later lien."

16 2. By amending subsection (d) to read:

17 "(d) Any other law to the contrary notwithstanding, in
18 assessing real property for public facilities, the authority
19 [~~shall~~] may assess the real property within an assessment area
20 according to the special benefits conferred upon the real
21 property by the public facilities[+] even if the zoning
22 classifications are I-1 or I-2. These methods may include



1 assessment on a frontage basis or according to the area of real
2 property within an assessment area or any other assessment
3 method which assesses the real property according to the special
4 benefit conferred, or any combination thereof. No such
5 assessment levied against real property specially benefited as
6 provided by this chapter shall constitute a tax on real property
7 within the meanings of any constitutional or statutory
8 provisions."

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval
12 and shall apply to taxable years beginning after December 31,
13 2007, and before January 1, 2010; provided that part I of this
14 Act shall be repealed on January 1, 2010.



Report Title:

Kakaako; Taxation; Industrial Business Tax Credit

Description:

Provides an unspecified tax credit for real property in the Kakaako community development district located on real property designated as an industrial district for a portion of the general excise tax; provided that the property was in use for light industrial, wholesaling, or service and commercial operations in the year in which the tax credit is taken and retains the industrial district designation; repeals in two years; clarifies that the HCDA may, not shall, affix assessments against real property for district-wide improvements. (SB3167 SD2)

