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# A BILL FOR AN ACT

RELATING TO A NEW MARKETS TAX CREDIT.

**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-    New markets tax credit. (a) Section 45D (with  
5 respect to new markets tax credit) of the Internal Revenue Code  
6 shall be operative for the purposes of this chapter, except as  
7 otherwise provided in this section.

8           (b) Each taxpayer subject to the tax imposed by this  
9 chapter who holds a qualified equity investment on a credit  
10 allowance date of that investment, which occurs during the  
11 taxable year, may claim a credit against the taxpayer's net  
12 income tax liability for the taxable year. The amount of the  
13 credit shall be deductible from the taxpayer's net income tax  
14 liability, if any, imposed by this chapter for the taxable year  
15 in which the credit is properly claimed on a timely basis.

16           (c) The amount of the credit shall be equal to the  
17 applicable percentage of the amount paid to the qualified



1 community development entity for the investment at its original  
2 issue. As used in this section, "applicable percentage" means:

3 (1) \_\_\_\_\_ per cent with respect to the first three credit  
4 allowance dates; and

5 (2) \_\_\_\_\_ per cent with respect to the remainder of the  
6 credit allowance dates.

7 (d) The total amount of credits taken under this section  
8 shall not exceed \$ \_\_\_\_\_ per taxable year. An application  
9 for a new markets tax credit shall be submitted to the director  
10 of taxation on forms established by the director of taxation  
11 prior to the use of the credit. The allocation of tax credits  
12 under this section shall be made by the director of taxation to  
13 qualified community development entities on a first-come, first-  
14 served basis.

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

20 A tax credit under this section that exceeds the taxpayer's  
21 net income tax liability may be used as a credit against the  
22 taxpayer's income tax liability in subsequent years until



1 exhausted. All claims for a tax credit under this section shall  
2 be filed on or before the end of the twelfth month following the  
3 close of the taxable year for which the credit may be claimed.  
4 Failure to properly and timely claim the credit shall constitute  
5 a waiver of the right to claim the credit.

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

11 SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) The following Internal Revenue Code subchapters,  
14 parts of subchapters, sections, subsections, and parts of  
15 subsections shall not be operative for the purposes of this  
16 chapter, unless otherwise provided:

17 (1) Subchapter A (sections 1 to 59A) (with respect to  
18 determination of tax liability), except section  
19 1(h)(2) (relating to net capital gain reduced by the  
20 amount taken into account as investment income),  
21 except sections 2(a), 2(b), and 2(c) (with respect to  
22 the definition of "surviving spouse" and "head of



1 household"), except section 41 (with respect to the  
2 credit for increasing research activities), except  
3 section 42 (with respect to low-income housing  
4 credit), except section 45D (with respect to new  
5 markets tax credit), and except sections 47 and 48, as  
6 amended, as of December 31, 1984 (with respect to  
7 certain depreciable tangible personal property). For  
8 treatment, see sections 235-110.91, 235-110.7, [and]  
9 235-110.8[7], and section 235- ;

10 (2) Section 78 (with respect to dividends received from  
11 certain foreign corporations by domestic corporations  
12 choosing foreign tax credit);

13 (3) Section 86 (with respect to social security and tier 1  
14 railroad retirement benefits);

15 (4) Section 103 (with respect to interest on state and  
16 local bonds). For treatment, see section 235-7(b);

17 (5) Section 114 (with respect to extraterritorial income).

18 For treatment, any transaction as specified in the  
19 transitional rule for 2005 and 2006 as specified in  
20 the American Jobs Creation Act of 2004 section 101(d)  
21 and any transaction that has occurred pursuant to a



- 1 binding contract as specified in the American Jobs  
2 Creation Act of 2004 section 101(f) are inoperative;
- 3 (6) Section 120 (with respect to amounts received under  
4 qualified group legal services plans). For treatment,  
5 see section 235-7(a) (9) to (11);
- 6 (7) Section 122 (with respect to certain reduced uniformed  
7 services retirement pay). For treatment, see section  
8 235-7(a) (3);
- 9 (8) Section 135 (with respect to income from United States  
10 savings bonds used to pay higher education tuition and  
11 fees). For treatment, see section 235-7(a) (1);
- 12 (9) Subchapter B (sections 141 to 150) (with respect to  
13 tax exemption requirements for state and local bonds);
- 14 (10) Section 151 (with respect to allowance of deductions  
15 for personal exemptions). For treatment, see section  
16 235-54;
- 17 (11) Section 179B (with respect to expensing of capital  
18 costs incurred in complying with Environmental  
19 Protection Agency sulphur regulations);
- 20 (12) Section 181 (with respect to special rules for certain  
21 film and television productions);



- 1 (13) Section 196 (with respect to deduction for certain  
2 unused investment credits);
- 3 (14) Section 199 (with respect to the U.S. production  
4 activities deduction);
- 5 (15) Section 222 (with respect to qualified tuition and  
6 related expenses);
- 7 (16) Sections 241 to 247 (with respect to special  
8 deductions for corporations). For treatment, see  
9 section 235-7(c);
- 10 (17) Section 280C (with respect to certain expenses for  
11 which credits are allowable). For treatment, see  
12 section 235-110.91;
- 13 (18) Section 291 (with respect to special rules relating to  
14 corporate preference items);
- 15 (19) Section 367 (with respect to foreign corporations);
- 16 (20) Section 501(c)(12), (15), (16) (with respect to exempt  
17 organizations);
- 18 (21) Section 515 (with respect to taxes of foreign  
19 countries and possessions of the United States);
- 20 (22) Subchapter G (sections 531 to 565) (with respect to  
21 corporations used to avoid income tax on  
22 shareholders);



- 1       (23) Subchapter H (sections 581 to 597) (with respect to  
2       banking institutions), except section 584 (with  
3       respect to common trust funds). For treatment, see  
4       chapter 241;
- 5       (24) Section 642(a) and (b) (with respect to special rules  
6       for credits and deductions applicable to trusts). For  
7       treatment, see sections 235-54(b) and 235-55;
- 8       (25) Section 646 (with respect to tax treatment of electing  
9       Alaska Native settlement trusts);
- 10      (26) Section 668 (with respect to interest charge on  
11      accumulation distributions from foreign trusts);
- 12      (27) Subchapter L (sections 801 to 848) (with respect to  
13      insurance companies). For treatment, see sections  
14      431:7-202 and 431:7-204;
- 15      (28) Section 853 (with respect to foreign tax credit  
16      allowed to shareholders). For treatment, see section  
17      235-55;
- 18      (29) Subchapter N (sections 861 to 999) (with respect to  
19      tax based on income from sources within or without the  
20      United States), except sections 985 to 989 (with  
21      respect to foreign currency transactions). For



- 1 treatment, see sections 235-4, 235-5, and 235-7(b),  
2 and 235-55;
- 3 (30) Section 1042(g) (with respect to sales of stock in  
4 agricultural refiners and processors to eligible farm  
5 cooperatives);
- 6 (31) Section 1055 (with respect to redeemable ground  
7 rents);
- 8 (32) Section 1057 (with respect to election to treat  
9 transfer to foreign trust, etc., as taxable exchange);
- 10 (33) Sections 1291 to 1298 (with respect to treatment of  
11 passive foreign investment companies);
- 12 (34) Subchapter Q (sections 1311 to 1351) (with respect to  
13 readjustment of tax between years and special  
14 limitations);
- 15 (35) Subchapter R (sections 1352 to 1359) (with respect to  
16 election to determine corporate tax on certain  
17 international shipping activities using per ton rate);
- 18 (36) Subchapter U (sections 1391 to 1397F) (with respect to  
19 designation and treatment of empowerment zones,  
20 enterprise communities, and rural development  
21 investment areas). For treatment, see chapter 209E;





- 1 (37) Subchapter W (sections 1400 to 1400C) (with respect to
- 2 District of Columbia enterprise zone);
- 3 (38) Section 14000 (with respect to education tax
- 4 benefits);
- 5 (39) Section 1400P (with respect to housing tax benefits);
- 6 (40) Section 1400R (with respect to employment relief); and
- 7 (41) Section 1400T (with respect to special rules for
- 8 mortgage revenue bonds)."

9 SECTION 3. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act, upon its approval, shall apply to  
 12 taxable years beginning after December 31, 2006.

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**Report Title:**

Tax Credit; New Markets

**Description:**

Provides a new markets tax credit of a certain percentage of the amount paid to a qualified community development entity for a qualified equity investment.

