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## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The effects of the September 11, 2001,  
2 terrorist attacks upon the United States had a devastating  
3 effect on Hawaii's economy. In October of 2001, the legislature  
4 met in special session to approve emergency measures in response  
5 to the attacks. One response was the enactment of Act 10, Third  
6 Special Session Laws of Hawaii 2001, which made the then  
7 existing hotel construction and remodeling tax credit more  
8 generous. Act 10 altered the tax credit from a four per cent  
9 refundable credit to a ten per cent nonrefundable credit for  
10 costs incurred prior to July 1, 2003, to assist the tourism  
11 industry in its efforts to attract more visitors to Hawaii.

12           Act 10 provided the stimulus needed to boost Hawaii's  
13 workforce and economy during difficult economic times.

14           Hawaii is again in an economic recession. Stimulus and  
15 other initiatives are needed to counteract the negative impact  
16 that the worlds' economy has had on our State. Like the  
17 experience with Act 10, the legislature finds that a generous



1 tax credit can provide an excellent means to boost Hawaii's  
2 tourism and construction industries.

3 Senate Concurrent Resolution No. 132, S.D. 1 (2009),  
4 established a task force to determine the economic contributions  
5 of the construction industry in Hawaii. As directed in the  
6 concurrent resolution, the task force has developed a series of  
7 proposals for state actions to preserve and create new jobs in  
8 the local construction industry. The intent of this Act is to  
9 implement one of the task force's proposals.

10 The purpose of this Act is to create a hotel construction  
11 and remodeling tax credit to boost Hawaii's construction and  
12 visitor industries. The legislature finds that implementation  
13 of this legislation is necessary and warranted.

14 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 "§235- Hotel construction and remodeling tax credit.

18 (a) There shall be allowed to each taxpayer, subject to the  
19 taxes imposed by this chapter and chapter 237D, an income tax  
20 credit, which shall be deductible from the taxpayer's net income  
21 tax liability, if any, imposed by this chapter for the taxable  
22 year in which the credit is properly claimed.



1       The amount of the tax credit shall be ten per cent of the  
2 construction or renovation costs incurred during the taxable  
3 year for each qualified hotel facility located in Hawaii, and  
4 shall not include the construction or renovation costs for which  
5 another credit was claimed under this chapter for the taxable  
6 year; provided that the construction or renovation costs are  
7 incurred before December 31, 2015.

8       In the case of a partnership, S corporation, estate, trust,  
9 association of a qualified hotel facility, time share owners  
10 association, or any developer of a time share project, the tax  
11 credit allowable is for construction or renovation costs  
12 incurred by the entity for the taxable year. The cost upon  
13 which the tax credit is computed shall be determined at the  
14 entity level. Distribution and share of credit shall be  
15 determined by rules.

16       If a deduction is taken under section 179 (with respect to  
17 election to expense depreciable business assets) of the Internal  
18 Revenue Code, no tax credit shall be allowed for that portion of  
19 the construction or renovation cost for which the deduction is  
20 taken.

21       (b) The credit allowed under this section shall be claimed  
22 against the net income tax liability, for the taxable year.



1        (c) If the tax credit under this section exceeds the  
2 taxpayer's income tax liability, the excess of credit over  
3 liability shall be refunded to the taxpayer provided that no  
4 refund on account of the tax credit allowed by this section  
5 shall be made for amounts less than \$1. All claims for a tax  
6 credit under this section, including amended claims, shall be  
7 filed on or before the end of the twelfth month following the  
8 close of the taxable year for which the credit may be claimed.  
9 Failure to comply with the foregoing provision shall constitute  
10 a waiver of the right to claim the credit.

11        (d) The director of taxation shall prepare any forms that  
12 may be necessary to claim a credit under this section. The  
13 director may also require the taxpayer to furnish information to  
14 ascertain the validity of the claim for credit made under this  
15 section and may adopt rules necessary to effectuate the purposes  
16 of this section pursuant to chapter 91.

17        (e) The tax credit allowed under this section shall be  
18 available for taxable years beginning after December 31, 2009,  
19 and shall not be available for taxable years beginning after  
20 December 31, 2015.

21        (f) To qualify for the income tax credit, the taxpayer  
22 shall be in compliance with all applicable federal, state, and



1 county statutes, rules, and regulations, including the  
2 Davis-Bacon Act and chapter 104.

3 (g) As used in this section:

4 "Construction or renovation cost" means any costs incurred  
5 after December 31, 2009, for plans, design, construction, and  
6 equipment related to new construction, alterations, or  
7 modifications to a qualified hotel facility.

8 "Net income tax liability" means income tax liability  
9 reduced by all other credits allowed under this chapter.

10 "Qualified hotel facility" means:

11 (1) A hotel/hotel-condo as defined in section 486K-1;

12 (2) A time share facility or project; or

13 (3) Commercial buildings and facilities located within a  
14 qualified resort area.

15 "Qualified resort area" means an area designated for hotel  
16 use, resort use, or transient vacation rentals, pursuant to  
17 county authority under section 46-4, or where the county, by its  
18 legislative process, designates hotel, transient vacation  
19 rental, or resort use.

20 "Taxpayer" means a taxpayer under this chapter, and  
21 includes:

22 (1) An association of apartment owners; or



1        (2) A time share owners association.  
2        (h) No taxpayer that claims a credit under this section  
3 shall claim a credit under chapter 235D."

4        SECTION 3. New statutory material is underscored.

5        SECTION 4. This Act shall take effect upon its approval  
6 and shall apply to taxable years beginning after December 31,  
7 2009.

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INTRODUCED BY:

Calvin K. Say

BY REQUEST

JAN 22 2010



**Report Title:**

Construction Task Force; Tax Credit; Hotel Construction;  
Remodeling; Resort Area

**Description:**

Creates a 10% refundable tax credit for construction or  
renovation costs incurred on a qualified hotel facility before  
December 31, 2015.

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*

