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# A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

**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 the low-income housing credit) of the  
5 Internal Revenue Code shall be operative for [~~the~~] purposes of  
6 this chapter as provided in this section~~[-]~~; except for section  
7 42(b) of the Internal Revenue Code, which shall not be operative  
8 for purposes of this chapter.

9           (b) Each taxpayer subject to the tax imposed by this  
10 chapter, who has filed [+]a[+] net income tax return for a  
11 taxable year may claim a low-income housing tax credit against  
12 the taxpayer's net income tax liability. 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. A  
16 credit under this section may be claimed whether or not the

1 taxpayer claims a federal low-income housing tax credit pursuant  
2 to section 42 of the Internal Revenue Code.

3 (c) The amount of the low-income housing tax credit that  
4 may be claimed by a taxpayer as provided in subsection (b) shall  
5 be [fifty per cent of the applicable percentage of the qualified  
6 basis of each building located in Hawaii. The applicable  
7 percentage shall be calculated as provided in section 42(b) of  
8 the Internal Revenue Code.] equal to the amount of the federal  
9 low-income housing tax credit that the taxpayer claimed or could  
10 have claimed pursuant to section 42 of the Internal Revenue Code  
11 for the same taxable year with respect to each qualified low-  
12 income building located in Hawaii; provided that, for purposes  
13 of subsection (b), the taxpayer may claim a low-income housing  
14 tax credit only with respect to the amount of the federal low-  
15 income housing tax credit claimed for the first five years of  
16 the credit period for each respective qualified low-income  
17 building, as defined in section 42(f)(1) of the Internal Revenue  
18 Code that is located in Hawaii; provided further that the amount  
19 of the low-income housing tax credit claimed by a taxpayer shall  
20 be computed without regard to any federal low-income housing tax  
21 credit that is carried forward from a prior taxable year.

- 1 (d) For the purposes of this section, the determination  
2 of:
- 3 (1) Qualified basis and qualified low-income building  
4 shall be made under section 42(c);
- 5 (2) Eligible basis shall be made under section 42(d);
- 6 (3) Qualified low-income housing project shall be made  
7 under section 42(g);
- 8 (4) Recapture of credit shall be made under section 42(j),  
9 except that the tax for the taxable year shall be  
10 increased under section 42(j)(1) only with respect to  
11 credits that were used to reduce state income taxes;
- 12 (5) Application of at-risk rules shall be made under  
13 section 42(k);
- 14 of the Internal Revenue Code.
- 15 (e) As provided in section 42(e), rehabilitation  
16 expenditures shall be treated as separate new building and their  
17 treatment under this section shall be the same as in section  
18 42(e). The [~~definitions and special rules relating to credit~~  
19 ~~period in section 42(f) and the~~] definitions and special rules  
20 in section 42(i) shall be operative for the purposes of this  
21 section.

1        (f) The definitions and special rules relating to credit  
2 periods in section 42(f) shall be operative for the purposes of  
3 this section; except that section 42(f)(1) of the Internal  
4 Revenue Code shall be modified as follows: the term "credit  
5 period" means, with respect to any building, the period of five  
6 taxable years beginning with:

7        (1) The taxable year in which the building is placed in  
8        service; or

9        (2) At the election of the taxpayer, the succeeding  
10       taxable year;

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

14       ~~[(f)]~~ (g) The state housing credit ceiling under section  
15 42(h) shall be zero for the calendar year immediately following  
16 the expiration of the federal low-income housing tax credit  
17 program and for any calendar year thereafter, except for the  
18 carryover of any credit ceiling amount for certain projects in  
19 progress which, at the time of the federal expiration, meet the  
20 requirements of section 42.

21       ~~[(g)]~~ (h) The credit allowed under this section shall be  
22 claimed against net income tax liability for the taxable year.

1 For the purpose of deducting this tax credit, net income tax  
2 liability means net income tax liability reduced by all other  
3 credits allowed the taxpayer under this chapter.

4 A tax credit under this section which exceeds the  
5 taxpayer's income tax liability may be used as a credit against  
6 the taxpayer's income tax liability in subsequent years until  
7 exhausted. All claims for a tax credit under this section must  
8 be filed on or before the end of the twelfth month following the  
9 close of the taxable year for which the credit may be claimed.  
10 Failure to properly and timely claim the credit shall constitute  
11 a waiver of the right to claim the credit. A taxpayer may claim  
12 a credit under this section only if the building or project is a  
13 qualified low-income housing building or a qualified low-income  
14 housing project under section 42 of the Internal Revenue Code.

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

18 [~~(h)~~] (i) The director of taxation may adopt any rules  
19 under chapter 91 and forms necessary to carry out this section."

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

1 SECTION 3. This Act shall take effect on January 1, 2110,  
2 and shall apply to qualified low-income buildings placed in  
3 service after December 31, 2009.

**Report Title:**

Low-Income Housing; Tax Credit

**Description:**

Shortens the period over which low-income housing tax credits can be taken from 10 years to 5 years. (SD2)