
A BILL FOR AN ACT

RELATING TO TAXATION.

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

PART I

1
2 SECTION 1. In light of the budgetary shortfall, the
3 legislature finds it crucial to clarify the intent and text of
4 laws that would generate additional revenue for the State if
5 implemented according to their legislative intent. Section 237-
6 29, Hawaii Revised Statutes, is one such law. It provides a
7 general excise tax exemption on "all gross income received by
8 any qualified person or firm for the planning, design,
9 financing, construction, sale, or lease in the State of a
10 housing project that has been certified or approved under
11 section 201H-36[.]" Pursuant to section 237-29, Hawaii Revised
12 Statutes, the Hawaii housing finance and development corporation
13 has adopted administrative rules (title 15, chapter 306, Hawaii
14 Administrative Rules) to implement the certification and
15 approval of projects to receive general excise tax exemptions.
16 However, the legislature finds that little information is made
17 public regarding the approval or certification of projects to
18 receive those exemptions, as household income information used



1 to qualify projects for the exemption are not reported outside
2 of the department of taxation and the Hawaii housing finance and
3 development corporation. Furthermore, developers, landlords, or
4 management companies who receive general excise tax exemptions
5 for qualified housing projects do not always pass on the tax
6 savings to their renters, resulting in both reduced tax revenue
7 to the State and no alleviation of rental costs for Hawaii's
8 residents.

9 The legislature further finds that a definition for
10 "qualified resident" exists under section 201H-32, Hawaii
11 Revised Statutes. Although the term is not referenced in
12 section 201H-36, Hawaii Revised Statutes (relating to general
13 excise tax exemptions for certain housing development projects
14 under the Hawaii housing finance and development corporation),
15 the legislature finds that numerous housing laws enacted by the
16 legislature over the past forty years mention the critical need
17 for affordable housing. With increasingly serious problems of
18 homelessness and a lack of affordable housing within the State,
19 the legislature concludes that the housing projects developed
20 under the Hawaii housing finance and development corporation
21 should seriously consider and address these housing issues to
22 the greatest extent possible. To this end, the legislature



1 finds that section 201H-36, Hawaii Revised Statutes, should be
2 clarified to reflect efforts to alleviate the housing hardships
3 encountered by Hawaii's residents.

4 The purpose of this part is to:

- 5 (1) Ensure that claimants who receive general excise tax
6 exemptions under section 201H-36, Hawaii Revised
7 Statutes, continue to meet all criteria necessary to
8 receive the exemptions;
- 9 (2) Increase the transparency of the process of approving
10 and certifying general excise tax exemptions for the
11 development of certain housing projects and rental
12 income from those projects;
- 13 (3) Apply the existing definition of "qualified resident"
14 under section 201H-32, Hawaii Revised Statutes, to the
15 section of law relating to general excise tax
16 exemptions for Hawaii housing finance and development
17 corporation housing development programs; and
- 18 (4) Establish a method of calculating the gross annual
19 income of households that qualifies certain persons or
20 firms for a general excise tax exemption to be
21 consistent with the United States Department of
22 Housing and Urban Development's method of determining



1 eligibility for the federal housing choice voucher
2 (section 8) program.

3 SECTION 2. Section 201H-1, Hawaii Revised Statutes, is
4 amended by adding a new definition to be appropriately inserted
5 and to read as follows:

6 "Qualified person or firm" means an individual,
7 partnership, joint venture, corporation, association, limited
8 liability partnership, limited liability company, business,
9 trust, or any organized group of persons or legal entities, or
10 any combination thereof, that possesses all professional or
11 vocational licenses necessary to do business in the State of
12 Hawaii in conjunction with the planning, design, financing,
13 construction (including materials and supplies for new
14 construction, moderate rehabilitation, and substantial
15 rehabilitation), sale, or rental of eligible housing projects."

16 SECTION 3. Section 201H-36, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+] §201H-36 [+] Exemption from general excise taxes. (a)
19 In accordance with section 237-29, the corporation may approve
20 and certify for exemption from general excise taxes [any]:



1 (1) Any qualified person or firm involved with the
2 development of a newly constructed, or moderately or
3 substantially rehabilitated project:

4 [~~1~~] (A) Developed under this part;

5 [~~2~~] (B) Developed under a government assistance program
6 approved by the corporation, including but not limited
7 to the United States Department of Agriculture 502
8 program and Federal Housing Administration 235
9 program;

10 [~~3~~] (C) Developed under the sponsorship of a private
11 nonprofit organization providing home rehabilitation
12 or new homes for qualified families in need of decent,
13 low-cost housing; or

14 [~~4~~] (D) Developed by a qualified person or firm to
15 provide affordable rental housing where at least fifty
16 per cent of the available units are designated for
17 households [~~with incomes~~] that include a qualified
18 resident, as defined by section 201H-32, or in the
19 absence of a qualified resident, an active duty
20 military service member, and that have a gross annual
21 income, as calculated by the United States Department
22 of Housing and Urban Development in determining



1 eligibility for the federal housing choice voucher
2 (section 8) program, at or below eighty per cent of
3 the area median family income as determined by the
4 United States Department of Housing and Urban
5 Development, of which at least twenty per cent of the
6 available units are for households [with incomes] that
7 include a qualified resident, as defined by section
8 201H-32, or in the absence of a qualified resident, an
9 active duty military service member, and that have a
10 gross annual income, as calculated by the United
11 States Department of Housing and Urban Development in
12 determining eligibility for the federal housing choice
13 voucher (section 8) program, at or below sixty per
14 cent of the area median family income as determined by
15 the United States Department of Housing and Urban
16 Development[-]; provided that any federal or state
17 housing assistance provided to a household that is not
18 included in gross annual income, as calculated by the
19 United States Department of Housing and Urban
20 Development in determining eligibility for the federal
21 housing choice voucher (section 8) program, shall not
22 disqualify a qualified person or firm from counting



1 that household's income toward the eligibility
2 criteria under this subparagraph; and

- 3 (2) Any qualified person or firm involved with the rental
4 of units in a housing project that provides affordable
5 rental housing where at least fifty per cent of the
6 available units are for households that include a
7 qualified resident, as defined by section 201H-32, or
8 in the absence of a qualified resident, an active duty
9 military service member, and that have a gross annual
10 income, as calculated by the United States Department
11 of Housing and Urban Development in determining
12 eligibility for the federal housing choice voucher
13 (section 8) program, at or below eighty per cent of
14 the area median family income as determined by the
15 United States Department of Housing and Urban
16 Development, of which at least twenty per cent of the
17 available units are for households that include a
18 qualified resident, as defined by section 201H-32, or
19 in the absence of a qualified resident, an active duty
20 military service member, and that have a gross annual
21 income, as calculated by the United States Department
22 of Housing and Urban Development in determining



1 eligibility for the federal housing choice voucher
2 (section 8) program, at or below sixty per cent of the
3 area median family income as determined by the United
4 States Department of Housing and Urban Development;
5 provided that:

6 (A) An exemption from general excise taxes granted to
7 qualified persons or firms pursuant to this
8 paragraph shall apply to only that portion of
9 rental income received from households that meet
10 the gross annual income requirements set forth in
11 this paragraph; and

12 (B) Any federal or state housing assistance provided
13 to a household that is not included in gross
14 annual income, as calculated by the United States
15 Department of Housing and Urban Development in
16 determining eligibility for the federal housing
17 choice voucher (section 8) program, shall not
18 disqualify a qualified person or firm from
19 counting that household's income toward the
20 eligibility criteria under this paragraph.

21 (b) All claims for exemption under this section shall be
22 filed with and certified by the corporation and forwarded to the



1 department of taxation. Any claim for exemption that is filed
2 and approved, shall not be considered a subsidy for the purpose
3 of this part.

4 (c) Any qualified person or firm involved with the rental
5 of units in a housing project that claims a general excise tax
6 exemption under this section shall require all tenants to
7 provide the following information on the rental or lease
8 agreement for the housing project:

9 (1) The annual gross income of the household renting each
10 unit; and

11 (2) The number of persons domiciled in the dwelling that
12 comprise each household.

13 (d) Any qualified person or firm that receives a general
14 excise tax exemption under this section shall annually submit to
15 the Hawaii housing finance and development corporation a claim
16 for certification of the exemption and be subject to a review at
17 least once every three years. All claims for exemption under
18 this section shall include certification that the income
19 criteria, residency criteria, and number of family members per
20 household have not changed in a way that would disqualify the
21 household from meeting the requirements for exemption under this
22 section.



1 The corporation, in consultation with the department of
2 taxation, shall adopt and make available forms to effectuate
3 this section.

4 (e) If a person or firm is found to have claimed or
5 received an exemption without meeting or continuing to meet the
6 requirements under this section, that person or firm shall
7 reimburse the State by a time and in the amount of the tax
8 liability, plus interest, to be determined by the director of
9 taxation.

10 (f) Any qualified person or firm involved with the rental
11 of units in a housing project that claims a general excise tax
12 exemption under this section shall not lower or raise the amount
13 of rent charged to a tenant based upon the qualified person or
14 firm's receipt of a general excise tax exemption on rental
15 income from that tenant.

16 ~~[-(e)]~~ (g) For the purposes of this section:

17 "Moderate rehabilitation" means rehabilitation to upgrade a
18 dwelling unit to a decent, safe, and sanitary condition, or to
19 repair or replace major building systems or components in danger
20 of failure.

21 "Substantial rehabilitation":



1 (1) Means the improvement of a property to a decent, safe,
2 and sanitary condition that requires more than routine
3 or minor repairs or improvements. It may include but
4 is not limited to the gutting and extensive
5 reconstruction of a dwelling unit, or cosmetic
6 improvements coupled with the curing of a substantial
7 accumulation of deferred maintenance; and

8 (2) Includes renovation, alteration, or remodeling to
9 convert or adapt structurally sound property to the
10 design and condition required for a specific use, such
11 as conversion of a hotel to housing for elders.

12 [~~d~~] (h) The corporation may establish, revise, charge,
13 and collect a reasonable service fee, as necessary, in
14 connection with its approvals and certifications under this
15 section. The fees shall be deposited into the dwelling unit
16 revolving fund.

17 (i) The corporation shall adopt rules, pursuant to chapter
18 91, for the purposes of this section. The rules shall include
19 but not be limited to penalties for claimants who have received
20 a general excise tax exemption without meeting or continuing to
21 meet the appropriate eligibility criteria in every taxable year
22 during which the claimant has received a general excise tax



1 exemption. Any penalty imposed under this subsection or rule
2 adopted thereunder shall be in addition to any back taxes owed
3 or penalties applied thereto."

4 SECTION 4. Section 237-1, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Qualified person or firm" means an individual,
8 partnership, joint venture, corporation, association, limited
9 liability partnership, limited liability company, business,
10 trust, or any organized group of persons or legal entities, or
11 any combination thereof, that possesses all professional or
12 vocational licenses necessary to do business in the State of
13 Hawaii in conjunction with the planning, design, financing,
14 construction (including materials and supplies for new
15 construction, moderate rehabilitation, and substantial
16 rehabilitation), sale, or rental of eligible housing projects."

17 PART II

18 SECTION 5. Chapter 235, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§235- Residential construction and remodeling tax
22 credit. (a) There shall be allowed to each individual taxpayer



1 who owns residential real property, and is subject to the taxes
2 imposed by this chapter, a residential construction and
3 remodeling tax credit that shall be deductible from the
4 taxpayer's net income tax liability, if any, imposed by this
5 chapter for the taxable year in which the credit is properly
6 claimed.

7 The amount of the tax credit claimed under this section by
8 the taxpayer in all years for which the credit is available
9 shall be limited to per cent of the residential
10 construction or remodeling costs paid by the taxpayer during the
11 taxable year for which the credit is claimed; provided that the
12 costs shall not exceed \$ in the aggregate for each
13 residential unit and that the costs are incurred before
14 July 1, .

15 A husband and wife filing separately, or multiple owners of
16 a property filing separately may apportion the tax credit
17 between themselves; provided that the tax credit may be claimed
18 only once for a single residential property.

19 If a deduction is taken under Section 179 (with respect to
20 election to expense depreciable business assets) of the Internal
21 Revenue Code, no tax credit shall be allowed for that portion of



1 the construction or remodeling cost for which the deduction is
2 taken.

3 (b) If the tax credit under this section exceeds the
4 taxpayer's income tax liability, the excess of credit over
5 liability may be used as a credit against the taxpayer's income
6 tax liability in subsequent years until exhausted.

7 All claims, including amended claims, for a tax credit
8 under this section shall be filed on or before the end of the
9 twelfth month following the close of the taxable year for which
10 the credit may be claimed. Failure to comply with the foregoing
11 provision shall constitute a waiver of the right to claim the
12 credit.

13 (c) The director of taxation:

14 (1) Shall prepare any forms that may be necessary to claim
15 a tax credit;

16 (2) May require the taxpayer to furnish information to
17 ascertain the validity of the claim for the tax
18 credit; and

19 (3) May adopt rules pursuant to chapter 91 necessary to
20 effectuate the purposes of this section.



1 (d) To qualify for the income tax credit, the taxpayer
2 shall be in compliance with all applicable federal, state, and
3 county statutes, rules, and regulations.

4 (e) As used in this section:

5 "Construction or remodeling cost" means any costs incurred
6 after December 31, _____, for plans, design, and construction
7 related to new construction, alterations, or modifications to a
8 residential apartment unit or house, and shall not include any
9 costs for which another credit was claimed under this chapter.

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

12 SECTION 6. The department of taxation shall submit a
13 report to the legislature that compares the impact on jobs and
14 on the state budget that is produced by four separate tax
15 credits for:

- 16 (1) New construction to residential apartment units and
17 houses;
- 18 (2) Renovations to residential apartment units and houses;
- 19 (3) New construction to hotels and resorts; and
- 20 (4) Renovations to hotels and resorts.



1 The department of taxation shall submit the report no later than
2 twenty days prior to the convening of the regular session of
3 2011.

4 **PART III**

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on July 1, 2020;
8 provided that part II shall apply to costs incurred in taxable
9 years beginning after December 31, 2010 and prior to January 1,
10 2014.



Report Title:

GET Exemption; HHFDC Housing Development; Rental Income; Tax Credit; Residential Construction and Remodeling

Description:

Part I ensures that claimants who receive GET exemptions continue to meet all criteria necessary to receive the exemptions. Increases the transparency of the process of approving and certifying certain GET exemptions. Adds a residency requirement for households in certain housing projects to qualify rental income from those households to be GET exempt. Amends the method of calculating the gross annual income of households to qualify certain persons or firms for a GET exemption. Part II provides a temporary tax credit for residential construction and remodeling projects. Requires a report to the legislature comparing the impact on jobs and the state budget for various tax credit schemes. Sunsets 12/31/2013. Effective 7/1/2020.

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

