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

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 federal low-income
15 housing tax credit claimed for the first five years of the
16 credit period for each respective qualified low-income building,
17 as defined in Section 42(f)(1) of the Internal Revenue Code that
18 is located in Hawaii; provided further that the amount of the
19 low-income housing tax credit claimed by a taxpayer shall be
20 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, 2010,
2 and shall apply to buildings placed in service after
3 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 ten years to five years. (SD1)