

JAN 21 2011

A BILL FOR AN ACT

RELATING TO ECONOMIC RECOVERY.

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

1 SECTION 1. Senate Concurrent Resolution No. 132, S.D. 1
2 (2009), established a task force to determine the economic
3 contributions of the construction industry in Hawaii and to
4 develop a series of proposals for state actions to preserve and
5 create new jobs in the local construction industry. This Act
6 implements one of the task force's proposals in conjunction with
7 the Abercrombie administration's support for state actions to
8 create new jobs in Hawaii's construction industry.

9 In addition, in 2010, the senate committee on economic
10 development and technology and the house committee on economic
11 revitalization, business, and military affairs convened an
12 informal small business discussion group to address the most
13 critical issues facing the small business sectors within
14 Hawaii's economy. Representatives from the Chamber of Commerce
15 of Hawaii, construction and trades industries, community
16 nonprofits, the agricultural sector, food and restaurant
17 industries, retailing, the science and technology sector, the
18 commercial transportation industry, and interested stakeholders



1 developed a package of bills that address the most pressing
2 problems facing Hawaii's small business community.

3 The purpose of this Act is to support the findings of the
4 small business working group and the recommendations proposed by
5 the construction industry task force to create a hotel
6 construction and renovation tax credit to boost Hawaii's
7 construction and visitor industries.

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

11 "§235- Hotel and resort property construction and
12 renovation tax credit. (a) There shall be allowed to each
13 taxpayer, subject to the taxes imposed by this chapter and
14 chapter 237D, a tax credit which shall be deductible from the
15 taxpayer's net income tax liability, if any, imposed for the
16 taxable year in which the credit is properly claimed.

17 The amount of the credit claimed under this section shall
18 be:

19 (1) Seven per cent of the construction or renovation costs
20 between \$1,000,000 and \$10,000,000 in the aggregate;
21 and



1 (2) Ten per cent of the construction or renovation costs
2 over \$10,000,000 to a maximum of \$100,000,000 in the
3 aggregate;
4 incurred during the taxable year for each qualified hotel
5 facility located in Hawaii; provided that the amount of credit
6 claimed shall not include the construction or renovation costs
7 for which another credit was claimed for the taxable year; and
8 provided that the construction or renovation costs are incurred
9 before December 31, 2016.

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

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



1 The basis of eligible property for depreciation or
2 accelerated cost recovery system purposes for state income taxes
3 shall be reduced by the amount of credit allowable and claimed.
4 In the alternative, the taxpayer shall treat the amount of the
5 credit allowable and claimed as a taxable income item for the
6 taxable year in which it is properly recognized under the method
7 of accounting used to compute taxable income.

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

10 (c) If the tax credit under this section exceeds the
11 taxpayer's tax liability, the excess of credit over liability
12 may be used as a credit against the taxpayer's tax liability in
13 subsequent years until exhausted.

14 (d) All claims for a tax credit under this section shall
15 be filed on or before the end of the twelfth month following the
16 close of the taxable year for which the credit may be claimed.
17 Failure to comply with the foregoing provision shall constitute
18 a waiver of the right to claim the credit.

19 (e) The director of taxation shall prepare any forms that
20 may be necessary to claim a credit under this section. The
21 director may also require the taxpayer to furnish information to
22 ascertain the validity of the claim for credit made under this



1 section and may adopt rules necessary to effectuate the purposes
2 of this section pursuant to chapter 91.

3 (f) The tax credit allowed under this section shall be
4 available for taxable years beginning after December 31, 2010,
5 and shall not be available for taxable years beginning after
6 December 31, 2016.

7 (g) Renovation or construction costs financed, in whole or
8 in part, with funds that represent government grants,
9 government-issued loans, or property assessed clean energy
10 financing, shall not be eligible for the tax credit under this
11 section.

12 (h) There shall be a total annual cap on tax credits
13 granted under this section of \$50,000,000.

14 (i) As used in this section:

15 "Construction or renovation cost" means any costs incurred
16 in Hawaii after December 31, 2010, and before January 1, 2017,
17 for the plans, design, construction, and equipment related to
18 new construction, alteration, or modification of a qualified
19 hotel facility.

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

22 "Qualified hotel facility" means a:



- 1 (1) Hotel, hotel-condominium, or condominium-hotel as
- 2 defined in section 486K-1;
- 3 (2) Time share facility or project; or
- 4 (3) Commercial building or facility located within a
- 5 qualified resort area.

6 "Qualified resort area" means an area designated for hotel
 7 use, resort use, or transient vacation rentals, pursuant to
 8 county authority under section 46-4, or where the county, by its
 9 legislative process, designates hotel, transient vacation
 10 rental, or resort use."

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2011, and
 13 shall apply to taxable years beginning after December 31, 2010.
 14

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Report Title:

Construction Task Force (2010); Taxation; Hotel Construction and Renovations

Description:

Provides a seven to ten percent tax credit for construction and renovations costs on hotel property incurred after December 31, 2010, through December 31, 2016.

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