
A BILL FOR AN ACT

RELATING TO HISTORIC STRUCTURES.

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

1 SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§6E- Historic preservation revolving fund. (a) There
5 is established the historic preservation revolving fund, into
6 which shall be deposited:

7 (1) All legislative appropriations to the historic
8 preservation revolving fund; and

9 (2) All county appropriations to the historic preservation
10 revolving fund;

11 provided that, for each fiscal year, all legislative
12 appropriations to the historic preservation revolving fund shall
13 equal one-half of all county appropriations.

14 (b) The historic preservation revolving fund shall be
15 administered by the state historic preservation division.

16 Moneys in the revolving fund shall be expended for the historic
17 preservation income tax credit established under section

18 235- ; provided that:



- 1 (1) Moneys in the fund equal to the total amount of
- 2 historic preservation income tax credits approved in
- 3 the previous year shall be paid to the credit of the
- 4 general fund on an annual basis;
- 5 (2) The director of taxation shall report annually to the
- 6 state historic preservation division on the total
- 7 amount of the historic preservation income tax credits
- 8 approved in the previous year; and
- 9 (3) The director of taxation and the state historic
- 10 preservation division each may adopt rules pursuant to
- 11 chapter 91 to effectuate this section."

12 SECTION 2. Chapter 235, Hawaii Revised Statutes, is

13 amended by adding a new section to be appropriately designated

14 and to read as follows:

15 "**§235- Historic preservation income tax credit.** (a)

16 Any law to the contrary notwithstanding, there shall be allowed

17 to each taxpayer subject to the taxes imposed by this chapter,

18 an income tax credit, which shall be deductible from the

19 taxpayer's net income tax liability, if any, imposed by this

20 chapter for the taxable year in which the tax credit is properly

21 claimed. For each rehabilitation plan accepted by qualified



1 staff of the state historic preservation division, the amount of
2 tax credit shall be:

3 (1) Twenty-five per cent of the projected qualified
4 rehabilitation expenditures; or

5 (2) Thirty per cent of the projected qualified
6 rehabilitation expenditures for rehabilitation plans;
7 provided that:

8 (A) At least twenty per cent of the units are rental
9 units that qualify as affordable housing; or

10 (B) At least ten per cent of the units are individual
11 homeownership units that qualify as affordable
12 housing.

13 (b) The tax credit allowed under this section shall be
14 available in the tax year in which the substantially
15 rehabilitated certified historic structure is placed in service.
16 In the case of projects completed in phases, the tax credit
17 shall be prorated to the substantially rehabilitated
18 identifiable portion of the building placed in service.

19 (c) In the case of a partnership, S corporation, estate,
20 trust, or any developer of a substantially rehabilitated
21 certified historic structure, the tax credit allowable shall be
22 as provided under subsection (b) for the taxable year. The cost



1 upon which the tax credit is computed shall be determined at the
2 entity level and the distribution and share of the tax credit
3 shall be determined pursuant to section 235-110.7(a).

4 (d) If the tax credit under this section exceeds the
5 taxpayer's income tax liability, the excess of credits over
6 liability shall be refunded to the taxpayer; provided that no
7 refunds or payment on account of the tax credits allowed by this
8 section shall be made for amounts less than \$1.

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

15 (f) Qualified staff of the state historic preservation
16 division shall develop standards and criteria for the approval
17 of the substantial rehabilitation of certified historic
18 structures for which the tax credit under this section is
19 sought. The standards and criteria shall consider whether the
20 rehabilitation of a certified historic structure will preserve
21 the historic character of the building.



1 (g) Following the completion of substantial rehabilitation
2 of a certified historic structure, the taxpayer shall notify the
3 state historic preservation division that the substantial
4 rehabilitation has been completed. The taxpayer shall provide
5 the state historic preservation division with documentation of
6 the costs incurred in substantially rehabilitating the certified
7 historic structure and shall submit certification of the costs
8 incurred in substantially rehabilitating the certified historic
9 structure. Qualified staff of the state historic preservation
10 division shall review the substantial rehabilitation and verify
11 its compliance with the rehabilitation plan.

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

18 (i) The aggregate amount of tax credits claimed for
19 qualified rehabilitation projects shall not exceed \$ _____ per
20 taxable year and the Hawaii historic places review board shall
21 be required to monitor and inform the department of taxation of
22 the annual projected aggregate tax credit amount.



1 (j) The state historic preservation division, in
2 consultation with the department of taxation, on an annual
3 basis, shall determine the type of information that is necessary
4 to enable a quantitative and qualitative assessment of the
5 outcomes of an application for the tax credit.

6 Every taxpayer claiming a tax credit under this section
7 shall submit a written, certified statement to the Hawaii
8 historic places review board, no later than the last day of the
9 twelfth month following the close of the taxable year in which
10 qualified costs were expended.

11 Any taxpayer failing to submit information to the state
12 historic preservation division in the manner prescribed by that
13 division prior to the last day of the twelfth month following
14 the close of the taxable year in which qualified costs were
15 expended shall not be eligible to receive the tax credit and any
16 credit already claimed for the taxable year shall be recaptured
17 in total. The amount of the recaptured tax credit shall be
18 added to the taxpayer's tax liability for the taxable year in
19 which the recapture occurs.

20 Notwithstanding any law to the contrary, a statement
21 submitted under this subsection shall be a public document.



1 (k) Recapture of a previously claimed credit shall be
2 required from a taxpayer who received a tax credit under this
3 section if:

4 (1) The projected qualified rehabilitation expenditures do
5 not materialize;

6 (2) The qualified rehabilitation plans do not proceed in a
7 timely manner and in accordance with the approved
8 plans; or

9 (3) In the case of the thirty per cent credit under
10 subsection (a) (2):

11 (A) Less than twenty per cent of the units are rental
12 units that qualify as affordable housing; or

13 (B) Less than ten per cent of the units are
14 individual homeownership units that qualify as
15 affordable housing.

16 (1) The state historic preservation division, in
17 consultation with the department of taxation, shall submit a
18 report to the legislature evaluating the effectiveness of the
19 tax credit no later than twenty days prior to the convening of
20 each regular session. The report shall include findings and
21 recommendations to improve the effectiveness of the tax credit



1 in order to further encourage the substantial rehabilitation of
2 certified historic structures.

3 (m) For the purposes of this section:

4 "Certified historic structure" means any structure that is:

5 (1) Listed individually in the Hawaii register of historic
6 places or the national register of historic places; or

7 (2) Located in a registered historic district and
8 certified by the state historic preservation division
9 as contributing to the historic significance of the
10 district.

11 "Qualified rehabilitation expenditures" means any costs
12 incurred for the physical construction involved in the
13 rehabilitation of a certified historic structure for mixed
14 residential and nonresidential uses; provided that at least
15 thirty per cent of the total square footage of the
16 rehabilitation is placed into service for residential use.

17 Qualified rehabilitation expenditures shall not include:

18 (1) The taxpayer's personal labor;

19 (2) The cost of a new addition, except as required to
20 comply with the applicable county building code or
21 fire safety code; or



1 (3) Any non-construction cost, such as architectural fees,
2 legal fees, or financing fees.

3 "Qualified staff of the state historic preservation
4 division" means a staff member who meets the National Park
5 Service's standards for architectural historian or historic
6 architect.

7 "Rehabilitation plan" means any construction plans and
8 specifications for the proposed rehabilitation of a certified
9 historic structure in sufficient detail for evaluation of
10 compliance with the standards and criteria developed by the
11 state historic preservation division.

12 "Substantial rehabilitation" means the qualified
13 rehabilitation expenditures of a certified historic structure
14 that exceed twenty-five per cent of the assessed value of the
15 structure."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act, upon its approval, shall apply to
18 taxable years beginning after December 31, 2011.



Report Title:

Historic Preservation Income Tax Credit

Description:

Establishes a tax credit for qualifying rehabilitation expenses of historic structures. Establishes a revolving fund administered by the state historic preservation division to fund the tax credit. (HB2420 HD1)

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