

---

---

# A BILL FOR AN ACT

RELATING TO THE HAWAII STRATEGIC DEVELOPMENT CORPORATION.

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

1           SECTION 1. The legislature finds that the State has a  
2 public interest in diversifying our economy and promoting the  
3 development of high technology ventures.

4           The purpose of this Act is to authorize the Hawaii  
5 strategic development corporation to transfer tax credits.

6           SECTION 2. Section 211F-1, Hawaii Revised Statutes, is  
7 amended by adding two new definitions to be appropriately  
8 inserted and to read as follows:

9           "Tax credits" means tax credits issued or transferred  
10 pursuant to this chapter and available against liabilities  
11 imposed by chapter 235 or 241 or section 431:7-202.

12           "Taxpayer" means a person subject to a tax imposed by  
13 chapter 235 or 241 or section 431:7-202."

14           SECTION 3. Chapter 211F, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17           "§211F-       Tax credits. (a) The State shall issue tax  
18 credits to the corporation that may be transferred or otherwise



1 used to reduce the tax liability of any taxpayer pursuant to  
2 chapter 235 or 241 or section 431:7-202. The total amount of  
3 tax credits that shall be issued and that may be transferred  
4 pursuant to this chapter by the corporation is \$ \_\_\_\_\_.

5 (b) The tax credits issued to the corporation shall be  
6 freely transferable by the corporation to transferees and by  
7 transferees to subsequent transferees; provided that the tax  
8 credits transferred by the corporation shall not be exercisable  
9 in a taxable year beginning before January 1, 2013, or ending  
10 after December 31, 2025.

11 The corporation shall notify the governor and the  
12 legislature in writing if any tax credit is transferred by the  
13 corporation; provided that the corporation shall not be required  
14 to make that notification for transfers to subsequent  
15 transferees.

16 (c) The corporation shall determine the amount of  
17 individual tax credits to be transferred pursuant to this  
18 chapter and may negotiate for the sale of those credits subject  
19 only to the limits imposed by this chapter.

20 The amount of tax credits transferred by the corporation  
21 pursuant to this chapter shall not exceed an aggregate total of  
22 \$ \_\_\_\_\_ per fiscal year. The board shall clearly indicate on



1 the face of the certificate or other document transferring the  
2 tax credit the following information:

- 3 (1) The principal amount of the tax credit; and
- 4 (2) The taxable year or years for which the credit may be  
5 claimed.

6 (d) Tax credits transferred by the corporation in  
7 accordance with this chapter are binding on the corporation and  
8 may not be modified, terminated, or rescinded.

9 (e) The corporation, in conjunction with the department of  
10 taxation, shall develop a system for registration of any tax  
11 credits issued or transferred pursuant to this chapter and a  
12 system of certificates that permits verification that:

- 13 (1) Any tax credit claimed upon a tax return is validly  
14 issued and properly taken in the year of claim; and
- 15 (2) Any transfers of the tax credit are made in accordance  
16 with this chapter.

17 (f) The corporation may pay a fee and provide other  
18 consideration in connection with the purchase by the corporation  
19 of a put option or other agreement pursuant to which a transfer  
20 of tax credits authorized by this chapter may be made.

21 (g) The corporation shall comply with best practices  
22 standards and shall invest moneys raised or arranged by the



1 corporation pursuant to this section, subject to the following  
2 limitations:

3 (1) The corporation shall invest principally in capital  
4 investment entities:

5 (A) With managers or management teams with investing  
6 experience in start-up or early stage ventures;

7 and

8 (B) With the ability to advise and mentor  
9 entrepreneurs and facilitate follow-on  
10 investments;

11 (2) Not more than fifteen per cent of the aggregate moneys  
12 raised or arranged shall be invested in a single fund;

13 (3) The corporation's capital commitment to a single fund  
14 shall not exceed fifty per cent of the total capital  
15 committed to that fund, except in the case of proof-  
16 of-concept or pre-seed investment entities; and

17 (4) The corporation shall establish a target for  
18 investments in Hawaii-based businesses of fifty per  
19 cent of the aggregate moneys raised or arranged  
20 pursuant to this section; provided that for the  
21 purposes of this subsection, "Hawaii-based businesses"  
22 means businesses whose principal operations are



1 located in Hawaii at the time of the initial  
2 investment.

3 (h) The tax credits shall be claimed as refundable tax  
4 credits.

5 (i) The tax credits issued or transferred pursuant to this  
6 chapter, upon election by the taxpayer at time of use, shall be  
7 treated as a payment or prepayment in lieu of taxes imposed  
8 under chapter 235 or 241 or section 431:7-202.

9 (j) If the tax credits under this section exceed the  
10 taxpayer's income tax liability under chapter 235 or 241 or  
11 section 431:7-202 for any taxable year, or for any other reason  
12 is not claimed by a taxpayer in whole or in part in any taxable  
13 year, the excess of the tax credit over liability, or the amount  
14 of the unclaimed tax credit, as the case may be, may be used in  
15 subsequent taxable years until exhausted, subject to:

16 (1) The deadline for the exercise of tax credits imposed  
17 by subsection (b); and

18 (2) The monetary limit imposed by subsection (c).

19 (k) A certificate or tax credit issued or transferred in  
20 accordance with this chapter shall not be considered a security  
21 under chapter 485A.



1       (l) The corporation shall not transfer or sell any tax  
2 credit at more than a thirty per cent discount.

3       (m) The corporation, in conjunction with the department of  
4 taxation, shall monitor the transfer of tax credits provided for  
5 under this section and submit a report on the transfer of tax  
6 credits to the legislature no later than twenty days prior to  
7 the convening of each regular session."

8       SECTION 4. New statutory material is underscored.

9       SECTION 5. This Act shall take effect on July 1, 2112.



**Report Title:**

Hawaii Strategic Development Corporation; Tax Credits

**Description:**

Authorizes the Hawaii Strategic Development Corporation to transfer tax credits issued by the State, subject to certain conditions. Effective July 1, 2112. (HB983 HD2)

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

