

JAN 26 2011

S.B. NO. 1100

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§235-           Historic preservation income tax credit. (a)

5 Any law to the contrary notwithstanding, there shall be allowed  
6 to each taxpayer subject to the tax imposed by this chapter, an  
7 income tax credit that shall be deductible from the taxpayer's  
8 net income tax liability, if any, imposed by this chapter for  
9 the taxable year in which the tax credit is properly claimed.  
10 For each rehabilitation plan accepted by qualified staff of the  
11 state historic preservation division of the department of land  
12 and natural resources, the amount of the tax credit shall be:

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

15           (2) Thirty per cent of the projected qualified  
16 expenditures for rehabilitation plans if:

17           (A) At least twenty per cent of the units are rental  
18 units and qualify as affordable housing; or



1           (B) At least ten per cent of the units are individual  
2                   homeownership units and qualify as affordable  
3                   housing.

4           (b) The tax credit allowed under this section shall be  
5           available in the tax year in which the substantially  
6           rehabilitated historic structure is placed in service. In the  
7           case of projects completed in phases, the tax credit shall be  
8           prorated to the substantially rehabilitated identifiable portion  
9           of the building placed in service.

10           (c) In the case of a partnership, S corporation, estate,  
11           trust, or any developer of a rehabilitated historic structure,  
12           the tax credit allowable shall be as provided under subsection  
13           (b) for the taxable year. The cost upon which the tax credit is  
14           computed shall be determined at the entity level and the  
15           distribution and share of the tax credit shall be determined  
16           pursuant to section 235-110.7(a).

17           (d) If the tax credit under this section exceeds the  
18           taxpayer's income tax liability, the excess of credit over  
19           liability shall be refunded to the taxpayer; provided that no  
20           refund on account of the tax credit allowed by this section  
21           shall be made for amounts less than \$1. All claims, including  
22           any amended claims, for the tax credit under this section shall



1 be filed on or before the end of the twelfth month following the  
2 close of the taxable year for which the credit may be claimed.  
3 Failure to comply with the foregoing provision shall constitute  
4 a waiver of the right to claim the credit.

5 (e) Qualified staff of the state historic preservation  
6 division shall develop standards and criteria for the approval  
7 of rehabilitation of certified historic structures for which the  
8 tax credit under this section is sought. These standards and  
9 criteria shall take into account whether the rehabilitation of a  
10 certified historic structure will preserve the historic  
11 character of the building.

12 (f) Following the completion of rehabilitation of a  
13 certified historic structure, the owner shall notify the state  
14 historic preservation division that the rehabilitation has been  
15 completed. The owner shall provide the state historic  
16 preservation division with documentation of the costs incurred  
17 in rehabilitating the historic structure and shall submit  
18 certification of the costs incurred in rehabilitating the  
19 historic structure. Qualified staff of the state historic  
20 preservation division shall review the rehabilitation and verify  
21 its compliance with the rehabilitation plan.



1        (g) The director of taxation shall prepare any forms that  
2 may be necessary to claim a tax credit under this section. The  
3 director may also require the taxpayer to furnish reasonable  
4 information to ascertain the validity of the claim for credit  
5 made under this section and may adopt rules necessary to  
6 effectuate the purposes of this section pursuant to chapter 91.

7        (h) The aggregate amount of tax credits claimed for  
8 qualified rehabilitation projects shall not exceed \$            per  
9 year and the state historic preservation division shall be  
10 required to monitor and inform the department of taxation of the  
11 annual projected tax credit amount.

12        (i) On an annual basis, the state historic preservation  
13 division, in consultation with the department of taxation, shall  
14 determine the information necessary to enable a quantitative and  
15 qualitative assessment of the outcomes of the tax credit to be  
16 determined. Each taxpayer claiming this tax credit, no later  
17 than the last day of the taxable year following the close of the  
18 taxable year in which qualified costs were expended, shall  
19 submit a written, certified statement to the state historic  
20 preservation division containing the qualified rehabilitation  
21 expenditures incurred by the taxpayer and any other information



1 the state historic preservation division or the department of  
2 taxation may require.

3 Any taxpayer failing to submit information to the state  
4 historic preservation division in the manner prescribed by the  
5 state historic preservation division prior to the last day of  
6 the taxable year following the close of the taxable year in  
7 which qualified costs were expended shall not be eligible to  
8 receive the tax credit, and any credit already claimed for that  
9 taxable year shall be recaptured in total. The amount of the  
10 recaptured tax credit shall be added to the taxpayer's tax  
11 liability for the taxable year in which the recapture occurs.

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

14 (j) Recapture of a previously claimed tax credit shall be  
15 required from a taxpayer who received the credit if any of the  
16 following occur:

17 (1) The projected qualified expenditures do not  
18 materialize;

19 (2) The qualified rehabilitation plans do not proceed in a  
20 timely manner and in accordance with the approved  
21 plans;



1       (3) In the case of the thirty per cent tax credit, less  
2       than twenty per cent of the units are rental units  
3       that qualify as affordable housing; or

4       (4) In the case of the thirty per cent tax credit, less  
5       than ten per cent of the units are individual  
6       homeownership units that qualifying as affordable  
7       housing.

8       (k) On an annual basis, the state historic preservation  
9       division, in consultation with the department of taxation, shall  
10       submit a report evaluating the effectiveness of the tax credit.  
11       The report shall include but not be limited to findings and  
12       recommendations to improve the effectiveness of the tax credit  
13       to further encourage the rehabilitation of historic properties.

14       (1) For the purposes of this section:

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

16       (1) Listed individually in the Hawaii register of historic  
17       places or the national register of historic places; or

18       (2) Located in a registered historic district and  
19       certified by the state historic preservation division  
20       as contributing to the historic significance of the  
21       district.



1       "Qualified rehabilitation expenditures" means any costs  
2 incurred for the physical construction involved in the  
3 rehabilitation of a historic structure for mixed residential and  
4 nonresidential uses where at least thirty per cent of the total  
5 square footage of the rehabilitation is placed into service for  
6 residential use. "Qualified rehabilitation expenditures" shall  
7 not include:

- 8       (1) The owner's personal labor;  
9       (2) The cost of a new addition, except as required to  
10       comply with the applicable county building code or  
11       fire safety code; and  
12       (3) Any non-construction cost, such as architectural fees,  
13       legal fees, and financing fees.

14       "Qualified staff of the state historic preservation  
15 division" means a staff member who meets the National Park  
16 Service Secretary of Interior standards for architectural  
17 historian or historic architect.

18       "Rehabilitation plan" means any construction plans and  
19 specifications for the proposed rehabilitation of a historic  
20 structure in sufficient detail for evaluation of compliance with  
21 the standards and criteria developed by the state historic  
22 preservation division.

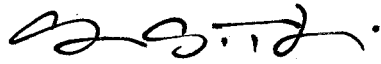


1           "Substantial rehabilitation" means the qualified  
2 rehabilitation expenditures of a historic structure that exceed  
3 twenty-five per cent of the assessed value of the structure."

4           SECTION 2.   New statutory material is underscored.

5           SECTION 3.   This Act, upon its approval, shall apply to  
6 taxable years beginning after December 31, 2010.

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INTRODUCED BY: 

**By Request**





**Report Title:**

Maui County Package; Historic Preservation Income Tax Credit

**Description:**

Establishes a historic preservation income tax credit.

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

