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# A BILL FOR AN ACT

RELATING TO TRAVEL AND TOURISM STIMULUS INITIATIVES.

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

1           SECTION 1. The legislature finds that tourism is Hawaii's  
2 principal industry, with visitor expenditures contributing  
3 \$11,100,000,000 to Hawaii's economy in 2010, and that amount is  
4 estimated to be \$12,600,000,000 for 2011. Tourists' stays at  
5 hotels and resorts, shopping, and attendance at attractions and  
6 sports and recreational activities, contribute significantly to  
7 Hawaii's tax base.

8           The legislature finds that Hawaii's travel and tourism  
9 industry must continue to refresh its product offering to  
10 support and attract new and repeat travelers, compete with other  
11 global destinations, and continue to distinguish Hawaii as a  
12 unique travel and tourist destination. Hawaii cannot continue  
13 to rely on aging hotel and resort infrastructure and hope for  
14 the best. Hawaii is at risk of losing its competitive edge in  
15 the travel and tourism industry to emerging tourist destinations  
16 that are competing for Hawaii's travel and tourism business.  
17 Traditional financing has failed to generate new construction  
18 and renovation work, and jobs are lacking.



1           The legislature finds that additional stimulus in the form  
2 of tax relief is necessary to provide an impetus to finance new  
3 construction and renovation of hotels and resorts, and allow new  
4 or newly renovated hotels and resorts to stabilize during  
5 operations, thereby generating jobs.

6           The purpose of this Act is to provide a stimulus, through  
7 tax relief, for:

- 8           (1) Employer hiring for certain individuals at new or  
9           renovated hotel and resort facilities for seven years  
10           after substantial completion of construction and  
11           renovation; and
- 12           (2) Large hotel and resort construction and renovation  
13           projects for seven years after substantial completion  
14           of construction and renovation.

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

18           "§235-       Employer tax credit for hiring certain  
19 individuals at new or renovated hotel or resort facilities. (a)  
20 Each qualified employer shall be allowed a tax credit for wages  
21 paid to each qualified employee. The amount of the tax credit



1 shall be 4.5 per cent of the wages paid by the qualified  
2 employer to the qualified employee during the taxable year.

3 (b) All claims for a tax credit under this section shall  
4 be filed with the department of taxation on or before the end of  
5 the twelfth month following the close of the taxable year for  
6 which the credit may be claimed. Failure to claim the credit in  
7 compliance with this section shall constitute a waiver of the  
8 right to claim the credit.

9 (c) If the tax credit under this section exceeds the  
10 taxpayer's income tax liability, the excess of the credit over  
11 liability shall be refunded to the taxpayer; provided that no  
12 refunds or payment on account of the tax credits allowed by this  
13 section shall be made for amounts less than \$1.

14 (d) The tax credit allowed under this section shall be  
15 available for the seven taxable years following the end of the  
16 taxable year in which the certified facility was substantially  
17 completed as defined under section 237- (f).

18 (e) As used in this section:

19 "Certified facility" means hotel facility or resort  
20 facility that was the subject of a pre-certification issued by  
21 the department under section 237- (c).



1       "Department" means the department of business, economic  
2 development, and tourism.

3       "Qualified employee" means an individual, with respect to  
4 the taxable year for which the tax credit under this section is  
5 claimed, who:

6       (1) Was employed at any time during the taxable year by a  
7 qualified employer at a certified facility;

8       (2) Certified by signed affidavit or declaration that the  
9 individual was not employed for more than forty hours  
10 by the qualified employer at the certified facility  
11 during the ninety-day period ending on the date the  
12 individual began employment at the certified facility;

13       and

14       (3) Was not employed by the qualified employer to replace  
15 another employee of the employer at the certified  
16 facility unless the other employee separated from  
17 employment voluntarily or for cause.

18       "Qualified employer" means an employer, with respect to the  
19 taxable year for which the tax credit under this section is  
20 claimed, that owned or operated a certified facility.

21       "Wages" means the hourly wage or salary of the qualified  
22 employee."



1 SECTION 3. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§237- Hotel and resort construction and renovation tax  
5 exemption. (a) Each taxpayer shall be exempt from the taxes  
6 imposed by this chapter on the gross income earned from the  
7 construction or renovation of the hotel facility or resort  
8 facility.

9 (b) The taxpayer shall claim and report the exemption on  
10 the annual or periodic tax returns required under this chapter  
11 for the taxable year or period in which the taxpayer earned the  
12 gross income claimed exempt from tax under this section.

13 (c) The exemption under subsection (a) shall be  
14 conditioned on the department pre-certifying the construction or  
15 renovation of a hotel facility or resort facility as satisfying  
16 the conditions of this section based upon an application or  
17 amended application that:

18 (1) Is submitted by the owner, developer, or general  
19 contractor of the hotel facility or resort facility at  
20 any time before or during construction or renovation  
21 of the hotel facility or resort facility;



1        (2) Describes, in sufficient detail, the construction or  
2        renovation of the hotel facility or resort facility;

3        (3) Estimates the costs of construction or renovation and  
4        tax exemptions and credits to be claimed under this  
5        section and section 235- ; and

6        (4) Includes all other information prescribed by the  
7        department.

8        (d) The department shall maintain records of the names of  
9        taxpayers claiming the exemption under this section, the amount  
10       of the exemption claimed, and the construction or renovation of  
11       a hotel facility or resort facility. The department shall  
12       prepare an annual report of the records that shall be made  
13       public.

14       (e) The department shall adopt procedures, rules, and  
15       forms for the pre-certification of the construction or  
16       renovation of a hotel facility or resort facility under  
17       subsection (c) similar to those adopted pursuant to sections  
18       201H-36 and 237-29, to the extent applicable. The department  
19       may establish, charge, and collect a reasonable service fee, as  
20       necessary, in connection with the pre-certification under  
21       subsection (c).

22       (f) As used in this section:



1       "Construction or renovation of a hotel facility or a resort  
2 facility" means the planning, design, construction, furniture  
3 and fixtures above routine maintenance, materials, and equipment  
4 related to new construction, alterations, remediation, or  
5 modifications of a hotel facility or resort facility in the  
6 State that is substantially completed by June 30, 2017; provided  
7 that:

- 8       (1) The construction or renovation costs exceed  
9       \$50,000,000 by June 30, 2017; and
- 10       (2) The general contractor and any subcontractors of the  
11       construction or renovation are signatory parties to  
12       collective bargaining agreements with the appropriate  
13       construction trade unions covering construction work  
14       in the State of Hawaii.

15       Construction or renovation costs shall not include costs  
16 incurred as the result of planned or routine maintenance or  
17 refurbishments that would ordinarily take place throughout the  
18 normal course of business.

19       "Department" means the department of business, economic  
20 development, and tourism.



1       "Hotel facility" means a hotel or hotel-condominium as  
2 defined in section 486K-1 and includes a time share facility or  
3 project.

4       "Resort facility" means a full-service lodging facility  
5 that provides access to or offers a range of amenities and  
6 recreation facilities to emphasize a leisure experience and  
7 includes commercial, retail, and attraction facilities located  
8 within the areas surrounding or related to the lodging facility  
9 within the same county of the State.

10       "Substantially completed" means the state of condition at  
11 which the hotel facility or resort facility or a portion thereof  
12 is sufficiently complete, in accordance with the contract  
13 documents, so that the hotel facility or the resort facility or  
14 a portion thereof can be occupied or used for its intended  
15 purpose, without regard to the completion of furnishings,  
16 fixtures, and interior finishes."

17       SECTION 4. Section 238-3, Hawaii Revised Statutes, is  
18 amended by amending subsection (j) to read as follows:

19       "(j) The tax imposed by this chapter shall not apply to  
20 any use of property, services, or contracting exempted by  
21 section 237-26 [~~or section~~], 237-29[-], or 237-    ."





1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2012;  
4 provided that:

5 (1) Section 2 shall apply to taxable years beginning after  
6 December 31, 2011; and

7 (2) Sections 3 and 4 shall apply to taxable periods  
8 beginning after June 30, 2012.



**Report Title:**

Employer Tax Credit for Hiring of Individuals; Tax Exemption for Hotel and Resort Construction and Renovation

**Description:**

Provides an employer tax credit of 4.5 per cent of the wages paid by a qualified employer to certain employees for seven years after completion of hotel and resort construction and renovation; provides a general excise tax exemption for hotel and resort construction and renovation and for the operation of these hotels and resorts for seven years after substantial completion of construction and renovation; requires construction and renovation of a hotel facility or resort facility to be completed by 6/30/2017 to be eligible for the exemption; employer tax credit applies to taxable years beginning after 12/31/2011; hotel and resort construction and renovation general excise tax exemption applies to taxable periods beginning after 6/30/2012. (SD1)

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

