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# 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 to the historic  
14 preservation revolving fund.

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

17 Moneys in the revolving fund shall be expended for the historic



1 preservation income tax credit under section 235- ; provided  
2 that:

3 (1) Moneys in the fund equal to the total amount of  
4 historic preservation income tax credits approved in  
5 the previous year shall be paid to the credit of the  
6 general fund on an annual basis;

7 (2) The director of taxation shall report annually to the  
8 state historic preservation division on the total  
9 amount of the historic preservation income tax credits  
10 approved in the previous year; and

11 (3) The director of taxation and the state historic  
12 preservation division each may adopt rules pursuant to  
13 chapter 91 to effectuate this section."

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

17 "§235- Historic preservation income tax credit. (a)  
18 Any law to the contrary notwithstanding, there shall be allowed  
19 to each taxpayer subject to the taxes imposed by this chapter an  
20 income tax credit, which shall be deductible from the taxpayer's  
21 net income tax liability, if any, imposed by this chapter for  
22 the taxable year in which the tax credit is properly claimed.

1 For each rehabilitation plan approved by qualified staff of the  
2 state historic preservation division of the department of land  
3 and natural resources, the amount of the tax credit shall be:

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

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

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

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

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

20 (c) In the case of a partnership, S corporation, estate,  
21 trust, or any developer of a rehabilitated historic structure,  
22 the tax credit allowable shall be as provided under subsection



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

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

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

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



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

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

17       (i) The aggregate amount of tax credits claimed for  
18 qualified rehabilitation projects shall not exceed \$           per  
19 taxable year and the state historic preservation division shall  
20 monitor, and inform the department of taxation of, the annual  
21 projected 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, no  
7 later than the last day of the twelfth month following the close  
8 of the taxable year in which qualified costs were expended,  
9 shall submit a written, certified statement to the state  
10 historic preservation division.

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

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

6        (2) The rehabilitation of the certified historic structure  
7 does not proceed in a timely manner and in accordance  
8 with the approved rehabilitation plan; 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 but not be  
21 limited to findings and recommendations to improve the



1 effectiveness of the tax credit in order to further encourage  
2 the rehabilitation of historic properties.

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 historic structure for mixed residential and  
14 nonresidential uses; provided that at least thirty per cent of  
15 the total square footage of the rehabilitated structure is  
16 placed into service for residential use. Qualified  
17 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, Secretary of the Interior's standards for architectural  
6 historian or historic architect.

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

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

15       SECTION 3. New statutory material is underscored.

16       SECTION 4. This Act shall take effect on December 31,  
17 2050, and shall apply to taxable years beginning after December  
18 31, 2012.



**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. Effective December 31, 2050. (HB1422 HD1)

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

