
A BILL FOR AN ACT

RELATING TO GROUNDWATER RECHARGE.

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

1 SECTION 1. The legislature finds that the amount of
2 recharge to groundwater aquifers must be increased to meet
3 rising water demands. Groundwater recharge can only occur if
4 water can penetrate the land surface. The legislature also
5 finds that businesses and agricultural operations can provide a
6 public service by opting to maintain a permeable land surface
7 where water can percolate down to groundwater aquifers. By
8 doing so, excess water that is not evaporated or taken up by
9 vegetation becomes groundwater storage that will serve a future
10 public good. The legislature believes that businesses and
11 agricultural operations should be compensated for such public
12 service, and an incentive should be provided to encourage
13 businesses and agricultural operations to incorporate the
14 performance of ecological services into their business models.

15 The purpose of this Act is to:

16 (1) Establish an income tax credit for taxpayers who
17 maintain permeable surfaces on their property; and



1 (2) Permit the deduction of expenses incurred toward
2 certification as an organic agricultural operation, or
3 the determination of a qualifying property's net water
4 infiltration.

5 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
6 amended by adding two new sections to be appropriately
7 designated and to read as follows:

8 "§235-A Permeable surfaces tax credit. (a) There shall
9 be allowed to each taxpayer subject to the taxes imposed by this
10 chapter, an income tax credit that shall be deductible from the
11 taxpayer's net income tax liability, if any, imposed by this
12 chapter for the taxable year in which the credit is properly
13 claimed.

14 For each qualifying property, the dollar amount of the
15 permeable surfaces tax credit shall be equal to ten per cent of
16 the value of the volume of water permitted to percolate into the
17 groundwater aquifer, as determined by a geologist, hydrologist,
18 soil agronomist, or related professional, based on the net water
19 infiltration, the area of permeable surface available for
20 groundwater recharge, and an average water utility rate
21 determined by the public utilities commission. This rate shall
22 be double for:



- 1 (1) Operations actively irrigating with reclaimed
- 2 wastewater, gray water, or brackish water;
- 3 (2) Business or agricultural operations operating in an
- 4 area found to be under drought conditions; or
- 5 (3) Organic agricultural operations, as certified by the
- 6 United States Department of Agriculture.

7 A taxpayer may claim this credit for each qualifying property.

8 (b) As used in this section:

9 "Net water infiltration" means the amount of water that
10 penetrates the ground surface, in excess of evaporation and
11 plant consumption, per unit of time as determined by a
12 geologist, hydrologist, soil agronomist, or related
13 professional.

14 "Organic agricultural operation" means any agricultural
15 operation that has been certified as organic by the United
16 States Department of Agriculture.

17 "Permeable surface" means a ground surface that permits
18 water to infiltrate at a rate in excess of 0.1 feet per day.

19 "Qualifying property" means property where the taxpayer
20 maintains permeable surfaces for the purpose of allowing water
21 infiltration into aquifers; provided that the property:

22 (1) Is operated:



1 (A) For agricultural purposes; or

2 (B) For recreational purposes; and

3 (2) Comprises at least five acres.

4 (c) Each calendar year that the tax credit is claimed, the
5 taxpayer shall provide information to the chairperson of the
6 board of land and natural resources on the net water
7 infiltration of the qualifying property. This information shall
8 be verified by a geologist, hydrologist, soil agronomist, or
9 related professional.

10 Upon verification of the information provided by the
11 taxpayer, the department of land and natural resources shall
12 issue a certificate to the taxpayer verifying the credit amount
13 certified for each taxable year. The taxpayer shall file the
14 certificate with the taxpayer's tax return with the department
15 of taxation. Notwithstanding the department of land and natural
16 resources' certification authority under this section, the
17 director of taxation may audit and adjust certification to
18 conform to the facts.

19 (d) If the tax credit under this section exceeds the
20 taxpayer's income tax liability, the excess of the credit over
21 liability may be used as a credit against the taxpayer's income
22 tax liability in subsequent years until exhausted. All claims



1 for the tax credit under this section, including amended claims,
2 shall be filed on or before the end of the twelfth month
3 following the close of the taxable year for which the credit may
4 be claimed. Failure to comply with this subsection shall
5 constitute a waiver of the right to claim the credit.

6 (e) The director of taxation shall prepare forms that may
7 be necessary to claim a credit under this section. The director
8 may also require the taxpayer to furnish information to
9 ascertain the validity of the claim for credit made under this
10 section and may adopt rules necessary to effectuate the purposes
11 of this section pursuant to chapter 91.

12 §235-B Net water infiltration certification; tax
13 deduction. (a) There shall be allowed as a deduction from
14 gross income a dollar amount equal to the amount paid during the
15 taxable year by a taxpayer to obtain:

16 (1) Certification of an organic agricultural operation; or
17 (2) A determination of the net water infiltration of a
18 qualifying property's net water infiltration by a
19 geologist, hydrologist, soil agronomist, or related
20 professional;

21 provided that these amounts were paid for the purpose of
22 claiming a tax credit under section 235-A.



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

7 SECTION 3. In codifying the new sections added by section
 8 2 of this Act, the revisor of statutes shall substitute
 9 appropriate section numbers for the letters used in designating
 10 the new sections in this Act.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act, upon its approval, shall apply to
 13 taxable years beginning after December 31, 2012.

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INTRODUCED BY:

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H.B. NO. 1394

Report Title:

Permeable Surfaces; Water Infiltration; Tax Credit; Tax Deduction

Description:

Establishes an income tax credit for taxpayers who maintain permeable surfaces on their property. Permits a taxpayer to deduct from state income taxes the costs of certifying an organic agricultural operation or determining a qualifying property's net water infiltration.

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