
A BILL FOR AN ACT

RELATING TO THE CAPITAL INFRASTRUCTURE TAX CREDIT.

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

1 SECTION 1. The legislature finds that development of a new
2 overseas container terminal and piers at the lower Kapalama
3 military reservation site requires improvements on fast and
4 submerged lands associated with piers twenty-four through
5 twenty-eight to accommodate maritime dependent operators at
6 Kapalama who are to be evicted and displaced. The total cost
7 for the proposed master plan at the Kapalama site is estimated
8 to be \$243,000,000, which is being financed entirely by the
9 State through revenue bonds and revenues from harbor tariffs and
10 leases. None of these funds, however, will go toward assisting
11 displaced maritime and waterfront dependent tenants of the
12 Kapalama site. The displaced tenants will be relocated to
13 various piers that have limited infrastructure, facilities, and
14 utilities. These tenants must find ways to finance not only
15 their move, but also significant capital improvements to state-
16 owned land.

17 The legislature finds that the Kapalama container terminal
18 project is critical to modernizing its commercial harbors and



1 that completion of the project will assure that harbor
2 infrastructure is adequate to support sustained economic growth.
3 The legislature also finds that supporting those maritime and
4 waterfront dependent tenants displaced by the Kapalama container
5 terminal project supports the growth of commerce in the State
6 and supports maritime jobs. In light of state support provided
7 for University of Hawaii-related tenants that have been
8 displaced by the Kapalama container terminal project, the
9 legislature finds it prudent and fair to also support the
10 maritime-dependent operators in Kapalama who are being displaced
11 by the project. The solution proposed in this Act is to provide
12 a capital infrastructure tax credit to help displaced tenants
13 raise private equity capital. This approach is expected to:

- 14 (1) Mobilize private equity and near-equity capital for
15 investment in critical waterfront infrastructure in
16 Honolulu harbor;
- 17 (2) Retain the private sector culture of focusing on rate
18 of return in the investing process;
- 19 (3) Secure and retain the services of high quality trade
20 labor in the maritime industry in Hawaii; and



1 (4) Accomplish the foregoing in a return-driven manner
2 with the goal of minimizing any adverse impact on
3 state tax revenues.

4 Accordingly, the purpose of this Act is to establish a
5 capital infrastructure tax credit to help tenants displaced by
6 the Kapalama container terminal project in raising capital to
7 make improvements on state-owned property upon relocation.

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

11 "§235- Capital infrastructure tax credit. (a) There
12 shall be allowed to each qualified infrastructure tenant subject
13 to the taxes imposed by this chapter a capital infrastructure
14 tax credit that shall be deductible from the taxpayer's net
15 income tax liability, if any, imposed by this chapter for the
16 taxable year in which the capital infrastructure investment was
17 made; provided that the credit is properly claimed.

18 (b) For the purpose of this section:

19 "Net income tax liability" means income tax liability
20 reduced by all other credits allowed under this chapter.

21 "Qualified infrastructure tenant" means a business:



1 (1) That currently owns capital or property or maintains
2 an office, operations, or facilities at the former
3 Kapalama military reservation site;
4 (2) Whose principal business is ship repair, maritime, and
5 waterfront dependent, and is included under the
6 State's plan to relocate the business to piers twenty-
7 four through twenty-eight within Honolulu harbor; and
8 (3) That will be displaced and relocated by the State
9 pursuant to the Kapalama container terminal project.
10 (c) The amount of the tax credit shall be equal to fifty
11 per cent of the capital infrastructure costs incurred by the
12 taxpayer during the taxable year up to a maximum of \$ _____ in
13 capital infrastructure costs in any taxable year.
14 (d) The credit allowed under this section shall be claimed
15 against the net income tax liability for the taxable year. If
16 the tax credit under this section exceeds the taxpayer's income
17 tax liability, the excess of the tax credit over liability may
18 be used as a credit against the taxpayer's net income tax
19 liability in subsequent years until exhausted. Every claim,
20 including amended claims, for a tax credit under this section
21 shall be filed on or before the end of the twelfth month
22 following the close of the taxable year for which the credit may

1 be claimed. Failure to comply with this subsection shall
2 constitute a waiver of the right to claim the credit.

3 (e) This section shall not apply to taxable years
4 beginning after December 31, 2019.

5 (f) Pursuant to chapter 91, the director of taxation may
6 adopt any rules or forms necessary to carry out this section."

7 SECTION 3. Chapter 241, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§241- Capital infrastructure tax credit. The capital
11 infrastructure tax credit established by section 235- shall
12 be operative for this chapter for taxable years beginning after
13 December 31, 2013."

14 SECTION 4. Section 235-2.45, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) Section 704 of the Internal Revenue Code (with
17 respect to a partner's distributive share) shall be operative
18 for purposes of this chapter; except that section 704(b)(2)
19 shall not apply to:

20 (1) Allocations of the high technology business investment
21 tax credit allowed by section 235-110.9 for
22 investments made before May 1, 2009;



1 (2) Allocations of net operating loss pursuant to section
2 235-111.5;

3 (3) Allocations of the attractions and educational
4 facilities tax credit allowed by section 235-110.46;
5 [~~or~~]

6 (4) Allocations of low-income housing tax credits among
7 partners under section 235-110.8[-]; or

8 (5) Allocations of the capital infrastructure tax credit
9 allowed by section 235- ."

10 SECTION 5. Section 235-110.51, Hawaii Revised Statutes, is
11 amended by amending subsection (h) to read as follows:

12 "(h) The tax credit allowed under this section shall not
13 be available for taxable years beginning after December 31,
14 [~~2010-~~] 2019."

15 SECTION 6. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 8. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2013; provided that
3 on December 31, 2019, this Act shall be repealed and section
4 235-2.45, Hawaii Revised Statutes, shall be reenacted in the
5 form in which it read on the day before the effective date of
6 this Act.



Report Title:

Capital Infrastructure Tax Credit; Kapalama Container Terminal Project; Displaced Tenants

Description:

Creates a capital infrastructure tax credit for tenants who are displaced by the Kapalama container terminal project. Enables banks and other financial corporations to claim the capital infrastructure tax credit. Provides that section 704(b)(2) of the Internal Revenue Code shall not apply to allocations of the capital infrastructure tax credit. Reinstates the technology infrastructure renovation tax credit through 2019. (HB1702 HD1)

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