

JAN 17 2014

---

---

# 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 investment was made; provided that the  
17 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 that:



1       (1) Currently owns capital or property or maintains an  
2       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 such business to piers  
7       twenty-four through twenty-eight within Honolulu  
8       harbor; and

9       (3) Will be displaced and relocated by the State pursuant  
10       to the Kapalama container terminal project.

11       (c) The amount of the tax credit shall be equal to  
12       per cent of the capital infrastructure costs incurred by the  
13       taxpayer during the taxable year up to a maximum of \$  
14       in capital infrastructure costs in any taxable year.

15       (d) The credit allowed under this section shall be claimed  
16       against the net income tax liability for the taxable year. If  
17       the tax credit under this section exceeds the taxpayer's income  
18       tax liability, the excess of the tax credit over liability may  
19       be used as a credit against the taxpayer's net income tax  
20       liability in subsequent years until exhausted. Every claim,  
21       including amended claims, for a tax credit under this section  
22       shall be filed on or before the end of the twelfth month



1 following the close of the taxable year for which the credit may  
2 be claimed. Failure to comply with this subsection shall  
3 constitute a waiver of the right to claim the credit.

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

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

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

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

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

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



- 1           (1) Allocations of the high technology business investment  
2                   tax credit allowed by section 235-110.9 for  
3                   investments made before May 1, 2009;
- 4           (2) Allocations of net operating loss pursuant to section  
5                   235-111.5;
- 6           (3) Allocations of the attractions and educational  
7                   facilities tax credit allowed by section 235-110.46;  
8                   ~~[or]~~
- 9           (4) Allocations of low-income housing tax credits among  
10                  partners under section 235-110.8~~[or]~~; or
- 11          (5) Allocations of the capital infrastructure tax credit  
12                  allowed by section 235- ."

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

15           "(h) The tax credit allowed under this section shall not  
16 be available for taxable years beginning after December 31,  
17 ~~[2010-]~~ 2019."

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



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act, upon its approval, shall apply to  
6 taxable years beginning after December 31, 2013.

7

INTRODUCED BY: Michelle Fedani

Donald H. Bell  
Clarence W. Dickerson  
Arvid J. Ege  
Melissa J. ...  
Mike ...  
D

M. P. ...  
Mark ...  
K. ...  
G. ...  
J. ...  
M. ...



# S.B. NO. 2322

**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. Allows banks and other financial corporations the ability to claim the capital infrastructure tax credit. Allows allocations of the capital infrastructure tax credit to a partner under a partnership agreement even if the allocation has a substantial economic effect. Renews the technology infrastructure renovation tax credit through 2019.

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

