

JAN 17 2014

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that the effects of the
2 September 11, 2001, terrorist attacks upon the United States had
3 a devastating effect on Hawaii's economy. In October of 2001,
4 the legislature met in special session to approve emergency
5 measures in response to the attacks. One response was the
6 enactment of Act 10, Third Special Session Laws of Hawaii 2001,
7 which increased the rate of the existing hotel construction and
8 remodeling tax credit. Act 10 altered the tax credit from a
9 four per cent refundable tax credit to a ten per cent
10 nonrefundable credit for costs incurred prior to July 1, 2003,
11 to assist the tourism industry in its efforts to attract more
12 visitors to Hawaii. Act 10 provided the stimulus needed to
13 boost Hawaii's workforce and economy during difficult economic
14 times.

15 The legislature finds that a competitive tax credit like
16 the one provided by Act 10 can provide an excellent means to
17 boost Hawaii's tourism and construction industries.
18 Construction activity in the visitor industry has demonstrated



1 economic multiplier effects due to the maintenance and creation
2 of construction employment and revenues from tourism activities.

3 In 2009, the legislature adopted senate concurrent
4 resolution no. 132, S.D. 1, which established the construction
5 industry task force (task force) to determine the economic value
6 of the construction industry in Hawaii. As directed in the
7 concurrent resolution, the task force was charged with
8 developing a series of recommendations to stimulate the
9 construction industry and create new jobs in the local
10 construction industry. Unfortunately, to date, many of the task
11 force's recommendations have yet to be enacted by the
12 legislature. The intent of this Act is to enact and implement
13 one of the recommendations of the task force in an effort to
14 support the local construction industry.

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- Hotel construction and remodeling tax credit.**

19 (a) There shall be allowed to each taxpayer, subject to the
20 taxes imposed by this chapter and chapter 237D, an income tax
21 credit, which shall be deductible from the taxpayer's net income



1 tax liability, if any, imposed by this chapter for the taxable
2 year in which the credit is properly claimed.

3 The amount of the tax credit shall be ten per cent of the
4 construction or renovation costs incurred during the taxable
5 year for each qualified hotel facility located in Hawaii, and
6 shall not include the construction or renovation costs for which
7 another credit was claimed under this chapter for the taxable
8 year; provided that the construction or renovation costs are
9 incurred before December 31, 2019.

10 In the case of a partnership, S corporation, estate, trust,
11 association of a qualified hotel facility, time share owners
12 association, or any developer of a time share project, the tax
13 credit allowable is for construction or renovation costs
14 incurred by the entity for the taxable year. The cost upon
15 which the tax credit is computed shall be determined at the
16 entity level. Distribution and share of credit shall be
17 determined under section 704(b) (with respect to partner's
18 distributive share) of the Internal Revenue Code.

19 If a deduction is taken under section 179 (with respect to
20 election to expense depreciable business assets) of the Internal
21 Revenue Code, no tax credit shall be allowed for that portion of



1 the construction or renovation cost for which the deduction is
2 taken.

3 (b) The credit allowed under this section shall be claimed
4 against the net income tax liability, for the taxable year.

5 (c) If the tax credit under this section exceeds the
6 taxpayer's income tax liability, the excess of credit over
7 liability may be used as a credit against the taxpayer's income
8 tax liability in subsequent years until exhausted. All claims
9 for a tax credit under this section, including amended claims,
10 shall be filed on or before the end of the twelfth month
11 following the close of the taxable year for which the credit may
12 be claimed. Failure to comply with the foregoing provision
13 shall constitute a waiver of the right to claim the credit.

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

20 (e) The tax credit allowed under this section shall be
21 available for taxable years beginning after December 31, 2013,



1 and shall not be available for taxable years beginning after
2 December 31, 2019.

3 (f) To qualify for the income tax credit, the taxpayer
4 shall be in compliance with all applicable federal, state, and
5 county statutes, rules, and regulations, including the Davis-
6 Bacon Act and chapter 104.

7 (g) As used in this section:

8 "Construction or renovation cost" means any costs incurred
9 after December 31, 2013, for plans, design, construction, and
10 equipment related to new construction of, alterations to, or
11 modifications to a qualified hotel facility.

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

14 "Qualified hotel facility" means:

15 (1) A hotel or hotel-condominium as defined in section
16 486K-1;

17 (2) A time share facility or project; or

18 (3) Commercial buildings and facilities located within a
19 qualified resort area.

20 "Qualified resort area" means an area designated for hotel
21 use, resort use, or transient vacation rentals, pursuant to
22 county authority under section 46-4, or where the county, by its



1 legislative process, designates hotel, transient vacation
2 rental, or resort use.

3 "Taxpayer" means a taxpayer under this chapter, and
4 includes:

- 5 (1) An association of apartment owners; or
6 (2) A time share owners association."

7 SECTION 3. New statutory material is underscored.

8 SECTION 4. This Act, upon its approval, shall apply to
9 taxable years beginning after December 31, 2013.

10

INTRODUCED BY: M. N. W. BA



S.B. NO. 2336

Report Title:

Construction Industry Task Force; Tax Credit; Hotel
Construction; Remodeling; Resort Area

Description:

Creates a ten per cent tax credit for construction or renovation costs incurred on a qualified hotel facility before December 31, 2019.

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

