
A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING TAX CREDIT.

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

1 SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-110.8 Low-income housing tax credit.** (a) Section
4 42 (with respect to low-income housing credit) of the Internal
5 Revenue Code shall be operative for the purposes of this chapter
6 as provided in this section. A taxpayer owning a qualified low-
7 income building who has been awarded a subaward under section
8 1602 of the American Recovery and Reinvestment Act of 2009,
9 Public Law 111-5, shall also be eligible for the credit provided
10 in this section.

11 (b) Each taxpayer subject to the tax imposed by this
12 chapter, who has filed a net income tax return for a taxable
13 year may claim a low-income housing tax credit against the
14 taxpayer's net income tax liability. The amount of the credit
15 shall be deductible from the taxpayer's net income tax
16 liability, if any, imposed by this chapter for the taxable year
17 in which the credit is properly claimed on a timely basis. A



1 credit under this section may be claimed whether or not the
2 taxpayer claims a federal low-income housing tax credit pursuant
3 to section 42 of the Internal Revenue Code.

4 (c) The amount of the low-income housing tax credit that
5 may be claimed by a taxpayer as provided in subsection (b) shall
6 be fifty per cent of the applicable percentage of the qualified
7 basis of each building located in Hawaii. The applicable
8 percentage shall be calculated as provided in section 42(b) of
9 the Internal Revenue Code[.] provided that:

10 (1) For credits allocated after June 30, 2016, for new
11 buildings that are not federally subsidized for the
12 taxable year, the taxpayer may claim the applicable
13 percentage up to a maximum of nine per cent of the
14 qualified basis of each building located in Hawaii in
15 each of the first three years of the credit period.
16 The credit claimed in the fourth year shall be the
17 qualified basis of each building located in Hawaii
18 multiplied by the difference of thirty-five per cent
19 minus the sum of the applicable percentages taken in
20 each of the first three years;



1 (2) For credits allocated after June 30, 2016, for new
2 buildings that are federally subsidized, the taxpayer
3 may claim the applicable percentage up to a maximum of
4 four per cent of the qualified basis of each building
5 located in Hawaii in each of the first three years of
6 the credit period. The credit claimed in the fourth
7 year shall be the qualified basis of each building
8 located in Hawaii multiplied by the difference of
9 fifteen per cent minus the sum of the applicable
10 percentages taken in each of the first three years.

11 (d) If a subaward under section 1602 of the American
12 Recovery and Reinvestment Act of 2009, Public Law 111-5, has
13 been issued for a qualified low-income building, the amount of
14 the low-income housing tax credits that may be claimed by a
15 taxpayer as provided in subsection (b) shall be equal to fifty
16 per cent of the amount of the federal low-income housing tax
17 credits that would have been allocated to the qualified low-
18 income building pursuant to section 42(b) of the Internal
19 Revenue Code by the corporation had a subaward not been awarded
20 with respect to the qualified low-income building.



1 (e) For the purposes of this section, the determination
2 of:

- 3 (1) Qualified basis and qualified low-income building
4 shall be made under section 42(c);
- 5 (2) Eligible basis shall be made under section 42(d);
- 6 (3) Qualified low-income housing project shall be made
7 under section 42(g);
- 8 (4) Recapture of credit shall be made under section 42(j),
9 except that the tax for the taxable year shall be
10 increased under section 42(j)(1) only with respect to
11 credits that were used to reduce state income taxes;
12 and
- 13 (5) Application of at-risk rules shall be made under
14 section 42(k);

15 of the Internal Revenue Code.

16 (f) As provided in section 42(e) [7] of the Internal
17 Revenue Code, rehabilitation expenditures shall be treated as a
18 separate new building and their treatment under this section
19 shall be the same as in section 42(e) [7] of the Internal Revenue
20 Code. [~~The definitions and special rules relating to credit~~
21 ~~period in section 42(f) and the]~~ The definitions and special



1 rules in section 42(i) of the Internal Revenue Code shall be
2 operative for the purposes of this section.

3 (g) The definitions and special rules relating to credit
4 period in section 42(f) of the Internal Revenue Code shall be
5 operative for the purposes of this section; provided that for
6 credits allocated after June 30, 2016, the credit period in
7 section 42(f) of the Internal Revenue Code shall be four taxable
8 years.

9 [~~g~~] (h) The state housing credit ceiling under section
10 42(h) of the Internal Revenue Code shall be zero for the
11 calendar year immediately following the expiration of the
12 federal low-income housing tax credit program and for any
13 calendar year thereafter, except for the carryover of any credit
14 ceiling amount for certain projects in progress which, at the
15 time of the federal expiration, meet the requirements of section
16 42[-] of the Internal Revenue Code.

17 [~~h~~] (i) The credit allowed under this section shall be
18 claimed against net income tax liability for the taxable year.
19 For the purpose of deducting this tax credit, net income tax
20 liability means net income tax liability reduced by all other
21 credits allowed the taxpayer under this chapter.



1 A tax credit under this section that exceeds the taxpayer's
2 income tax liability may be used as a credit against the
3 taxpayer's income tax liability in subsequent years until
4 exhausted. All claims for a tax credit under this section shall
5 be filed on or before the end of the twelfth month following the
6 close of the taxable year for which the credit may be claimed.
7 Failure to properly and timely claim the credit shall constitute
8 a waiver of the right to claim the credit. A taxpayer may claim
9 a credit under this section only if the building or project is a
10 qualified low-income housing building or a qualified low-income
11 housing project under section 42 of the Internal Revenue Code.

12 Section 469 (with respect to passive activity losses and
13 credits limited) of the Internal Revenue Code shall be applied
14 in claiming the credit under this section.

15 [~~(i)~~] (j) In lieu of the credit awarded under this section
16 for a qualified low-income building that has been awarded
17 federal credits that are subject to the state housing credit
18 ceiling under section 42(h)(3)(C) of the Internal Revenue Code,
19 federal credits that are allocated pursuant to section 42(h)(4)
20 of the Internal Revenue Code, or a subaward under section 1602
21 of the American Recovery and Reinvestment Act of 2009, Public



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1 Law 111-5, the taxpayer owning the qualified low-income building
 2 may make a request to the corporation for a loan under section
 3 201H-86. If the taxpayer elects to receive the loan pursuant to
 4 section 201H-86, the taxpayer shall not be eligible for the
 5 credit under this section.

6 ~~(+)~~ (k) The director of taxation may adopt any rules
 7 under chapter 91 and forms necessary to carry out this section."

8 SECTION 2. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act, upon its approval, shall apply to
 11 taxable years beginning after December 31, 2016.

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Report Title:

Low-income Housing Tax Credit

Description:

Permits developers of low-income housing to apply Hawaii low-income housing tax credits in four years instead of ten years.

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