
A BILL FOR AN ACT

RELATING TO THE LOW-INCOME HOUSING TAX CREDIT.

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

1 SECTION 1. Section 201H-15, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The state aggregate housing credit dollar amount
4 shall be allocated annually as required by section 42 of the
5 Internal Revenue Code of 1986, as amended, by the corporation in
6 an amount equal to [~~\$1.25 multiplied by the state population in~~
7 ~~the calendar year or such greater or lesser~~] the amount [as
8 provided by] allocated to the State under section 42(h) of the
9 Internal Revenue Code of 1986, as amended."

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

12 "§235-110.8 Low-income housing tax credit. (a) [~~Section~~]
13 As modified herein, section 42 (with respect to low-income
14 housing credit) of the Internal Revenue Code shall be operative
15 for the purposes of this chapter as provided in this section. A
16 taxpayer owning a qualified low-income building who has been
17 awarded a subaward under section 1602 of the American Recovery



1 and Reinvestment Act of 2009, Public Law 111-5, shall also be
2 eligible for the credit provided in this section.

3 (b) Each taxpayer subject to the tax imposed by this
4 chapter, who has filed a net income tax return for a taxable
5 year may claim a low-income housing tax credit against the
6 taxpayer's net income tax liability. The amount of the credit
7 shall be deductible from the taxpayer's net income tax
8 liability, if any, imposed by this chapter for the taxable year
9 in which the credit is properly claimed on a timely basis. A
10 credit under this section may be claimed whether or not the
11 taxpayer claims a federal low-income housing tax credit pursuant
12 to section 42 of the Internal Revenue Code.

13 (c) ~~[The]~~ For any qualified low-income building that
14 receives an allocation prior to January 1, 2017, the amount of
15 the low-income housing tax credit that may be claimed by a
16 taxpayer as provided in subsection (b) shall be fifty per cent
17 of the applicable percentage of the qualified basis of each
18 building located in Hawaii. The applicable percentage shall be
19 calculated as provided in section 42(b) of the Internal Revenue
20 Code.



1 (d) For any qualified low-income building that receives an
2 allocation after December 31, 2016:

3 (1) The amount of the low-income housing tax credits that
4 may be claimed by a taxpayer as provided in subsection
5 (b) shall be:

6 (A) For the first five years, _____ ; provided that
7 if in any year the aggregate amount of credits
8 under this paragraph exceeds the amount of state
9 credits allocated by the corporation for the
10 qualified low-income building, the credits
11 allowed for that year shall be limited to
12 _____ ;

13 (B) For the sixth year, _____ ; provided that if
14 the amount of credits allowed for the first five
15 years is less than the full amount of state
16 credits allocated by the corporation for the
17 qualified low-income building, the amount shall
18 be _____ ; and

19 (C) For any remaining years, _____ .
20 In no event shall the total amount of state credits
21 over the ten year period exceed _____ cent of the

1 total federal credits allocated to the qualified low-
2 income building over the ten year period; and

3 (2) If the low-income building is financed with tax-exempt
4 bonds, the amount of the low-income housing tax
5 credits that may be claimed by a taxpayer as provided
6 in subsection (b) shall be:

7 (A) For the first five years, _____ ; provided that
8 if in any year the aggregate amount of credits
9 under this paragraph exceeds the amount of state
10 credits allocated by the corporation for the
11 qualified low-income building, the credits
12 allowed for that year shall be limited to
13 _____ ; and

14 (B) For the sixth year, _____ ; provided that if
15 the amount of credits allowed for the first five
16 years is less than the full amount of state
17 credits allocated by the corporation for the
18 qualified low-income building, the amount shall
19 be _____ ;

20 In no event shall the total amount of state credits
21 over the ten year period exceed _____ per cent of

1 the total federal credits allocated to the qualified
2 low-income building over the ten year period.

3 ~~[(d)]~~ (e) If a subaward under section 1602 of the American
4 Recovery and Reinvestment Act of 2009, Public Law 111-5, has
5 been issued for a qualified low-income building, the amount of
6 the low-income housing tax credits that may be claimed by a
7 taxpayer as provided in subsection (b) shall be equal to fifty
8 per cent of the amount of the federal low-income housing tax
9 credits that would have been allocated to the qualified low-
10 income building pursuant to section 42(b) of the Internal
11 Revenue Code by the corporation had a subaward not been awarded
12 with respect to the qualified low-income building.

13 ~~[(e)]~~ (f) For the purposes of this section, the
14 determination of:

- 15 (1) Qualified basis and qualified low-income building
- 16 shall be made under section 42(c);
- 17 (2) Eligible basis shall be made under section 42(d);
- 18 (3) Qualified low-income housing project shall be made
- 19 under section 42(g); and
- 20 (4) Recapture of credit shall be made under section 42(j),
- 21 except that the tax for the taxable year shall be



1 increased under section 42(j)(1) only with respect to
2 credits that were used to reduce state income taxes [~~r~~
3 and

4 ~~(5) Application of at risk rules shall be made under~~
5 ~~section 42(k) ;~~

6 of the Internal Revenue Code.

7 [~~f~~] (g) As provided in section 42(e), rehabilitation
8 expenditures shall be treated as a separate new building and
9 their treatment under this section shall be the same as in
10 section 42(e). The definitions and special rules relating to
11 credit period in section 42(f) and the definitions and special
12 rules in section 42(i) shall be operative for the purposes of
13 this section.

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



1 [~~(h)~~] (i) The credit allowed under this section shall be
2 claimed against net income tax liability for the taxable year.
3 For the purpose of deducting this tax credit, net income tax
4 liability means net income tax liability reduced by all other
5 credits allowed the taxpayer under this chapter.

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

17 Section 42(k) (with respect to application of at-risk
18 rules), section 465 (with respect to deductions limited to
19 amount at risk), and section 469 (with respect to passive
20 activity losses and credits limited) of the Internal Revenue



1 Code shall not be applied [~~in~~] with respect to investments in
2 buildings and projects claiming the credit under this section.

3 [~~(i)~~] (j) In lieu of the credit awarded under this section
4 for a qualified low-income building that has been awarded
5 federal credits that are subject to the state housing credit
6 ceiling under section 42(h)(3)(C) of the Internal Revenue Code,
7 federal credits that are allocated pursuant to section 42(h)(4)
8 of the Internal Revenue Code, or a subaward under section 1602
9 of the American Recovery and Reinvestment Act of 2009, Public
10 Law 111-5, the taxpayer owning the qualified low-income building
11 may make a request to the corporation for a loan under section
12 201H-86. If the taxpayer elects to receive the loan pursuant to
13 section 201H-86, the taxpayer shall not be eligible for the
14 credit under this section.

15 [~~(j)~~] (k) The director of taxation may adopt any rules
16 under chapter 91 and forms necessary to carry out this section."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on January 1, 2030,
2 and shall apply to qualified low-income buildings awarded
3 credits after December 31, 2016.



Report Title:

Low-income Housing Tax Credit

Description:

Amends the state low-income housing tax credit. Bases the amount of the tax credit on whether a building is financed by tax-exempt bonds. (SB2833 HD2)

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