
A BILL FOR AN ACT

RELATING TO THE LOW-INCOME HOUSING INVESTMENT TAX CREDIT.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Low-income housing investment tax credit. (a)

5 There shall be allowed to each taxpayer subject to the taxes
6 imposed by this chapter a low-income housing investment tax
7 credit that shall be deductible from the taxpayer's net income
8 tax liability, if any, imposed by this chapter for the taxable
9 year in which the investment was made and the following four
10 taxable years. The tax credit may be claimed as follows:

11 (1) In the taxable year the investment was made, thirty-
12 five per cent of the investment made by the taxpayer
13 in each project or \$700,000, whichever is less;

14 (2) In the first taxable year following the year in which
15 the investment was made, twenty-five per cent of the
16 investment made by the taxpayer in each project or
17 \$500,000, whichever is less;



1 (3) In the second taxable year following the year in which
2 the investment was made, twenty per cent of the
3 investment made by the taxpayer in each project or
4 \$400,000, whichever is less;

5 (4) In the third taxable year following the year in which
6 the investment was made, ten per cent of the
7 investment made by the taxpayer in each project or
8 \$200,000, whichever is less; and

9 (5) In the fourth taxable year following the year in which
10 the investment was made, ten per cent of the
11 investment made by the taxpayer in each project or
12 \$200,000, whichever is less.

13 (b) The tax credit allowed under this section shall be
14 claimed against the taxpayer's net income tax liability for the
15 taxable year.

16 (c) If the tax credit under this section exceeds the
17 taxpayer's income tax liability for any of the five taxable
18 years that the credit is taken, the excess of the tax credit
19 over liability may be used as a credit against the taxpayer's
20 income tax liability in subsequent years until exhausted. Every
21 claim, including amended claims, for a tax credit under this



1 section shall be filed on or before the end of the twelfth month
2 following the close of the taxable year for which the credit may
3 be claimed. Failure to comply with the foregoing provision
4 shall constitute a waiver of the right to claim the credit.

5 (d) Common law principles, including the doctrine of
6 economic substance and business purpose, shall apply to any
7 investment. There exists a presumption that a transaction
8 satisfies the doctrine of economic substance and business
9 purpose to the extent that the special allocation of the low-
10 income housing investment tax credit has an investment tax
11 credit ratio of 4.0 or less of credit for every dollar invested.

12 Transactions for which an investment tax credit allocation
13 ratio greater than 4.0 and up to 6.0 of credit for every dollar
14 invested and claimed may be reviewed by the department for
15 applicable doctrines of economic substance and business purpose.

16 Taxpayers claiming a tax credit for transactions with
17 investment tax credit allocation ratios greater than 6.0 of
18 credit for every dollar invested shall substantiate economic
19 merit and business purpose consistent with this section.

20 (e) The director of taxation:



- 1 (1) Shall prepare any forms that may be necessary to claim
2 a tax credit under this section;
- 3 (2) May require the taxpayer to furnish reasonable
4 information to ascertain the validity of the claim for
5 the tax credit made under this section; and
- 6 (3) May adopt rules under chapter 91 necessary to
7 effectuate the purposes of this section.
- 8 (f) If the tax credit under this section exceeds the
9 taxpayer's income tax liability, the excess of the credit over
10 liability may be used as a credit against the taxpayer's income
11 tax liability in subsequent years until exhausted. All claims
12 for the tax credit under this section, including amended claims,
13 shall be filed on or before the end of the twelfth month
14 following the close of the taxable year for which the credit may
15 be claimed. Failure to comply with the foregoing provision
16 shall constitute a waiver of the right to claim the credit.
- 17 (g) Any portion of the ownership interest or credit may be
18 decoupled and assigned.
- 19 (h) Qualified project depreciation shall be calculated
20 under section 168(e)(3)(B) of the Internal Revenue Code.
- 21 (i) As used in this section:



1 "Investment tax credit allocation ratio" means, with
2 respect to a taxpayer that has made an investment in a qualified
3 project, the ratio of:

4 (1) The amount of the credit under this section that is,
5 or is to be, received by, or allocated to, the
6 taxpayer over the life of the investment, as a result
7 of the investment; to

8 (2) The amount of the investment in the qualified project.

9 "Project" means a qualified low-income housing project or
10 qualified low-income building as referenced under section 235-
11 110.8.

12 (j) This section shall not apply to taxable years
13 beginning after December 31, 20 ."

14 SECTION 2. Chapter 241, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "**§241- Low-income housing investment tax credit.** The
18 low-income housing investment tax credit provided under section
19 235- shall be operative for this chapter after December 31,
20 2017, and before January 1, 20 ."



1 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new section to article 7 to be appropriately
3 designated and to read as follows:

4 "§431:7- Low-income housing investment tax credit. The
5 low-income housing investment tax credit provided under section
6 235- shall be operative for this chapter after December 31,
7 2017, and before January 1, 20 , and may be claimed against the
8 tax imposed under section 431:7-202."

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

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

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

18 (2) Allocations of net operating loss pursuant to section
19 235-111.5;



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

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

6 (5) Allocations of low-income housing investment tax
7 credits among partners under section 235- ."

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon a date to be
11 determined and shall apply to investments made in qualified low-
12 income housing projects after December 31, 2017.



Report Title:

Low-Income Housing Projects; Low-Income Buildings; Tax Credit

Description:

Establishes a temporary tax credit for investments made in qualified low-income housing projects or qualified low-income buildings. (HB1216 HD1)

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