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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

**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-       Historic preservation income tax credit. (a)  
5 Notwithstanding any law to the contrary, there shall be allowed  
6 to each taxpayer subject to the tax imposed by this chapter a  
7 historic preservation income tax credit that shall be deductible  
8 from the taxpayer's net income tax liability, if any, imposed by  
9 this chapter for the taxable year in which the tax credit is  
10 properly claimed.

11           (b) In the case of a partnership, S corporation, estate,  
12 trust, or any developer of a rehabilitated certified historic  
13 structure, the tax credit allowable shall be as provided under  
14 subsection (d) for the taxable year. The cost upon which the  
15 credit is computed shall be determined at the entity level and  
16 the distribution and share of the tax credit shall be determined  
17 pursuant to section 704(b) of the Internal Revenue Code.



1        If a deduction is taken under section 179 (with respect to  
2 election to expense depreciable business assets) of the Internal  
3 Revenue Code, no tax credit shall be allowed for that portion of  
4 the qualified expense for which the deduction is taken.

5        The basis of eligible property for depreciation or  
6 accelerated cost recovery system purposes for state income taxes  
7 shall be reduced by the amount of credit allowable and claimed.  
8 In the alternative, the taxpayer shall treat the amount of the  
9 credit allowable and claimed as a taxable income item for the  
10 taxable year in which it is properly recognized under the method  
11 of accounting used to compute taxable income.

12        (c) The amount of a historic preservation income tax  
13 credit that is certified by qualified staff of the state  
14 historic preservation division of the department of land and  
15 natural resources shall be thirty per cent of the qualified  
16 rehabilitation expenditures.

17        (d) The tax credit allowed under this section shall be  
18 available in the taxable year in which the substantially  
19 rehabilitated certified historic structure is placed into  
20 service. In the case of projects completed in phases, the tax  
21 credit shall be prorated to the substantially rehabilitated



1 identifiable portion of the certified historic structure placed  
2 into service during that taxable year.

3 (e) If the tax credit under this section exceeds the  
4 taxpayer's income tax liability, the excess of the credit over  
5 liability may be used as a credit against the taxpayer's income  
6 tax liability in subsequent years until either the credit is  
7 exhausted, or for a period of ten years, whichever is earlier.

8 All claims for the tax credit under this section, including  
9 amended claims, shall be filed on or before the end of the  
10 twelfth month following the close of the taxable year for which  
11 the credit may be claimed. Failure to comply with the foregoing  
12 provision shall constitute a waiver of the right to claim the  
13 credit.

14 (f) The state historic preservation division shall adopt  
15 rules pursuant to chapter 91 establishing standards and criteria  
16 for the approval of rehabilitation of certified historic  
17 structures for which the tax credit under this section is  
18 sought. These standards and criteria shall take into account  
19 whether the rehabilitation of a certified historic structure  
20 will preserve the historic character of the building.



- 1        (g) Following the completion of rehabilitation of a  
2 certified historic structure:
- 3        (1) The taxpayer shall notify the state historic  
4 preservation division that the rehabilitation has been  
5 completed and shall provide the state historic  
6 preservation division with documentation and  
7 certification of the costs incurred in rehabilitating  
8 the historic structure;
- 9        (2) Qualified staff of the state historic preservation  
10 division shall review the rehabilitation and verify  
11 the rehabilitation project's compliance with the  
12 rehabilitation plan;
- 13        (3) Upon each determination made under this subsection,  
14 the state historic preservation division shall issue a  
15 certificate to the taxpayer verifying that the  
16 rehabilitation has been completed in accordance with  
17 the approved rehabilitation plan;
- 18        (4) The taxpayer shall file the certificate with the  
19 taxpayer's tax return with the department; and
- 20        (5) The department of land and natural resources may  
21 offset the costs of certifying tax credit claims under



1           this section by assessing and collecting a fee, which  
2           shall be deposited into the Hawaii historic  
3           preservation special fund established under section  
4           6E-16.

5           (h) The director of taxation shall prepare any forms that  
6           may be necessary to claim the tax credit under this section.

7           The director may also require the taxpayer to furnish reasonable  
8           information to ascertain the validity of the claim for credit  
9           made under this section and may adopt rules necessary to  
10           effectuate the purposes of this section pursuant to chapter 91.

11           (i) The aggregate amount of the tax credits claimed for  
12           qualified rehabilitation projects shall not exceed:

13           (1) \$           for the 2020 taxable year;

14           (2) \$           for the 2021 taxable year;

15           (3) \$           for the 2022 taxable year;

16           (4) \$           for the 2023 taxable year; and

17           (5) \$           for the 2024 taxable year and every year

18           thereafter.

19           (j) Each taxpayer claiming a tax credit under this  
20           section, no later than the last day of the twelfth month  
21           following the close of the taxable year in which qualified costs



1 were expended, shall submit a written, certified statement to  
2 the state historic preservation division containing the  
3 qualified rehabilitation expenditures incurred by the taxpayer  
4 and any other information the state historic preservation  
5 division or department of taxation may require.

6 Any taxpayer failing to submit information to the state  
7 historic preservation division in a manner prescribed by the  
8 state historic preservation division prior to the last day of  
9 the twelfth month following the close of the tax year in which  
10 qualified costs were expended shall not be eligible to receive  
11 the tax credit for those expenses, and any credit already  
12 claimed for that taxable year shall be recaptured in total. The  
13 amount of the recaptured tax credit shall be added to the  
14 taxpayer's tax liability for the taxable year in which the  
15 recapture occurs.

16 All information in the statement submitted under this  
17 section shall be a public document, except for information that  
18 is otherwise exempt from public disclosure in accordance with  
19 chapter 92F.



1        (k) Recapture of a previously claimed tax credit shall be  
2 required from any taxpayer who received a credit under this  
3 section if any of the following occur:

4        (1) The projected qualified expenditures do not  
5 materialize; or

6        (2) The rehabilitation of the certified historic structure  
7 does not proceed in a timely manner and in accordance  
8 with the approved rehabilitation plan.

9        Any credit under this section shall be recaptured following  
10 the close of the taxable year for which the credit is claimed if  
11 the department of land and natural resources notifies the  
12 department that the taxpayer has failed to comply with the  
13 requirements of this section or its related rules promulgated by  
14 the state historic preservation division.

15        (1) The state historic preservation division, in  
16 consultation with the department of taxation, shall determine  
17 the information necessary to enable a quantitative and  
18 qualitative assessment of the outcomes of the tax credit and  
19 submit a report to the legislature evaluating the effectiveness  
20 of the tax credit no later than twenty days prior to the  
21 convening of each regular legislative session. The report shall



1 include findings and recommendations to improve the  
2 effectiveness of the tax credit in order to further encourage  
3 the rehabilitation of historic properties.

4 (m) For the purposes of this section:

5 "Certified historic structure" means any structure that is:

6 (1) Individually listed in the Hawaii register of historic  
7 places or the national register of historic places;

8 (2) Located in a historic district that is listed in the  
9 Hawaii register of historic places or the national  
10 register of historic places, and certified by the  
11 state historic preservation division as contributing  
12 to the significance of the historic district; or

13 (3) A structure that the state historic preservation  
14 division has determined to be eligible for inclusion  
15 in the Hawaii register of historic places, and that is  
16 subsequently listed in the Hawaii register of historic  
17 places by the date of certification by the  
18 administrator of the state historic preservation  
19 division in accordance with subsection (g).

20 "Qualified rehabilitation expenditures" means any costs  
21 incurred for the physical rehabilitation, renovation, or





1 construction of a certified historic structure pursuant to a  
2 rehabilitation plan; provided that the term shall not include  
3 the taxpayer's personal labor.

4 "Qualified staff" means a staff person meeting the  
5 Secretary of the Interior's Historic Preservation Professional  
6 Qualification Standards for an architectural historian or  
7 historic architect.

8 "Rehabilitation plan" means any construction plans and  
9 specifications for the proposed rehabilitation of a historic  
10 structure in sufficient detail for evaluation of compliance with  
11 the rules adopted by the state historic preservation division.

12 "Substantial rehabilitation" means that the qualified  
13 rehabilitation expenditures on a certified historic structure  
14 exceed twenty-five per cent of the assessed value of the  
15 structure."

16 SECTION 2. There is established within the state historic  
17 preservation division of the department of land and natural  
18 resources one temporary position to assist with the  
19 establishment and administration of the historic preservation  
20 income tax credit program. The authorization for this temporary  
21 position shall expire at the end of fiscal year .



1 SECTION 3. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$85,000 or so much  
3 thereof as may be necessary for fiscal year 2019-2020 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2020-2021 for one temporary position in the state historic  
6 preservation division to assist with the establishment and  
7 administration of the historic preservation income tax credit  
8 program.

9 The sums appropriated shall be expended by the department  
10 of land and natural resources for the purposes of this Act.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Historic Preservation; Rehabilitation; Tax Credit; Appropriation

**Description:**

Establishes a historic preservation income tax credit.  
Appropriates funds for one temporary position to assist with the establishment and administration of the historic preservation income tax credit program. (SB1394 HD1)

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

