
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; and

18 (4) The taxpayer shall file the certificate with the
19 taxpayer's tax return with the department.

20 The department of land and natural resources may offset the
21 costs of certifying tax credit claims under this section by



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

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

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

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

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

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

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

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

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

17 thereafter.

18 (j) Each taxpayer claiming a tax credit under this
19 section, no later than the last day of the twelfth month
20 following the close of the taxable year in which qualified costs
21 were expended, shall submit a written, certified statement to

1 the state historic preservation division containing the
2 qualified rehabilitation expenditures incurred by the taxpayer
3 and any other information the state historic preservation
4 division or department of taxation may require.

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

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

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



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

3 (2) The rehabilitation of the certified historic structure
4 does not proceed in a timely manner and in accordance
5 with the approved rehabilitation plan.

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

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



1 (m) For the purposes of this section:
2 "Certified historic structure" means any structure that is:
3 (1) Individually listed in the Hawaii register of historic
4 places or the national register of historic places;
5 (2) Located in a historic district that is listed in the
6 Hawaii register of historic places or the national
7 register of historic places, and certified by the
8 state historic preservation division as contributing
9 to the significance of the historic district; or
10 (3) A structure that the state historic preservation
11 division has determined to be eligible for inclusion
12 in the Hawaii register of historic places, and that is
13 subsequently listed in the Hawaii register of historic
14 places by the date of certification by the
15 administrator of the state historic preservation
16 division in accordance with subsection (g).
17 "Qualified rehabilitation expenditures" means any costs
18 incurred for the physical rehabilitation, renovation, or
19 construction of a certified historic structure pursuant to a
20 rehabilitation plan; provided that the term shall not include
21 the taxpayer's personal labor.



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

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

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

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

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2019-2020 and the



1 same sum or so much thereof as may be necessary for fiscal year
2 2020-2021 for one temporary position in the state historic
3 preservation division to assist with the establishment and
4 administration of the historic preservation income tax credit
5 program.

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

8 SECTION 4. New statutory material is underscored.

9 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 HD2)

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