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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 tax credit. (a) There  
5 shall be allowed to each qualified taxpayer subject to the tax  
6 imposed by this chapter a historic preservation tax credit for  
7 qualified expenses incurred in the certified rehabilitation of  
8 an income-producing certified historic structure. The tax  
9 credit shall be deductible from the qualified taxpayer's net  
10 income tax liability, if any, imposed by this chapter for the  
11 taxable year in which the credit is properly claimed.

12           (b) The historic preservation tax credit shall be:

13           (1) Twenty-five per cent of the qualified expenses  
14 incurred in the rehabilitation of an income-producing  
15 certified historic structure; or



1        (2) Thirty per cent of the qualified expenses incurred in  
2        the rehabilitation of an income-producing, certified  
3        historic structure; provided that:

4        (A) At least twenty per cent of the units are for  
5        affordable rental housing; or

6        (B) At least ten per cent of the units are sold for  
7        affordable homeownership under affordable housing  
8        guidelines.

9        (c) In the case of a partnership, S corporation, estate,  
10       or trust, the tax credit allowable is for qualified expenses  
11       incurred by the entity for the taxable year. The cost upon  
12       which the tax credit is computed shall be determined at the  
13       entity level. Distribution and share of credit shall be  
14       determined pursuant to section 704 of the Internal Revenue Code.

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

19       The basis of eligible property for depreciation or  
20       accelerated cost recovery system purposes for state income taxes  
21       shall be reduced by the amount of credit allowable and claimed.



1 In the alternative, the taxpayer shall treat the amount of the  
2 credit allowable and claimed as a taxable income item for the  
3 taxable year in which it is property recognized under the method  
4 of accounting used to compute taxable income.

5 (d) If the tax credit under this section exceeds the  
6 taxpayer's net income tax liability, the excess of the credit  
7 over liability may be used as a credit against the taxpayer's  
8 income tax liability in subsequent years until exhausted. All  
9 claims for the tax credit under this section, including amended  
10 claims, shall be filed on or before the end of the twelfth month  
11 following the close of the taxable year for which the credit may  
12 be claimed. Failure to comply with the foregoing provision  
13 shall constitute a waiver of the right to claim the credit.

14 (e) The total amount of tax credits allowed under this  
15 section shall not exceed:

16 (1) \$ for qualified expenses incurred from January  
17 1, 2020 to December 31, 2020;

18 (2) \$ for qualified expenses incurred from January  
19 1, 2021 to December 31, 2021;

20 (3) \$ for qualified expenses incurred from January  
21 1, 2022 to December 31, 2022;



1           (4) \$ \_\_\_\_\_ for qualified expenses incurred from January  
2                   1, 2023 to December 31, 2023; and

3           (5) \$ \_\_\_\_\_ for qualified expenses incurred after  
4                   December 31, 2023;

5 provided that any taxpayer who is not eligible to claim the  
6 credit in a taxable year due to the cap having been exceeded for  
7 that taxable year shall be eligible to claim the credit in the  
8 subsequent taxable year.

9           (f) Every qualified taxpayer, before March 31 of each year  
10 in which qualified expenses were incurred in the previous  
11 taxable year, shall submit a written, certified statement to the  
12 state historic preservation division identifying:

13           (1) Qualified expenses, if any, expended in the previous  
14 taxable year; and

15           (2) The amount of tax credits claimed pursuant to this  
16 section, if any, in the previous taxable year.

17           (g) The state historic preservation division of the  
18 department of land and natural resources shall:

19           (1) Certify all qualified expenses, approved by qualified  
20 staff, for the purposes of this section;



1        (2) Collect and maintain a record of all qualified  
2        expenses certified by an appropriate government agency  
3        for the taxable year; and

4        (3) Certify to each qualified taxpayer the amount of  
5        credit the qualified taxpayer may claim; provided that  
6        if, in any year, the annual amount of certified  
7        credits reaches the aggregate cap pursuant to  
8        subsection (e), the state historic preservation  
9        division shall immediately discontinue certifying  
10       credits and notify the department of taxation.

11 The chairperson of the board of land and natural resources may  
12 adopt rules, including fees, under chapter 91 as necessary to  
13 implement the certification requirements under this section;  
14 provided that fees established pursuant to this section shall be  
15 deposited into the Hawaii historic preservation special fund,  
16 pursuant to section 6E-16.

17        (h) The director of taxation:

18        (1) Shall prepare any forms that may be necessary to claim  
19        a tax credit under this section;

1       (2) May require the taxpayer to furnish reasonable  
2       information to ascertain the validity of the claim for  
3       the tax credit made under this section; and

4       (3) May adopt rules under chapter 91 necessary to  
5       effectuate the purposes of this section.

6       (i) The state historic preservation division shall submit  
7       an annual report of its findings and recommendations, including  
8       any proposed legislation, to the legislature no later than  
9       twenty days prior to the convening of each regular session on  
10      the effectiveness of the historic preservation tax credit.

11      (j) Any credit under this section shall be recaptured  
12      following the close of the taxable year for which the credit is  
13      claimed if the department of land and natural resources notifies  
14      the department that the taxpayer's certification of qualified  
15      expenses from which the credit arose has been withdrawn due to  
16      failure to comply with the requirements of this section.

17      (k) For the purposes of this section:

18      "Affordable rental housing" means rental housing that meets  
19      the guidelines published by the United States Department of  
20      Housing and Urban Development for the year in which the units  
21      are put into service.



1 "Affordable homeownership" means housing that meets the  
2 guidelines published by the United States Department of Housing  
3 and Urban Development for the year in which the units are  
4 initially offered for sale.

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

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

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

13 (3) Eligible for inclusion in the Hawaii register of  
14 historic places, and which is listed in that register  
15 by the date of certification by the administrator of  
16 the state historic preservation division in accordance  
17 with subsection (g).

18 "Qualified expenditures" means any costs incurred for the  
19 physical construction involved in the certified rehabilitation  
20 of a certified historic structure. "Qualified expenditures"  
21 shall not include the owner's personal labor.



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

4        SECTION 2. There is appropriated out of the general  
5        revenues of the State of Hawaii the sum of \$                or so much  
6        thereof as may be necessary for fiscal year 2019-2020 and the  
7        same sum or so much thereof as may be necessary for fiscal year  
8        2020-2021 for one full-time equivalent (1.0 FTE) temporary  
9        position to assist in the administration of this Act.

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

12       SECTION 3. New statutory material is underscored.

13       SECTION 4. This Act shall take effect on January 1, 2050.





**Report Title:**

State Historic Preservation; DLNR; DOTAX; Appropriation

**Description:**

Establishes a historic preservation tax credit for qualified construction expenses incurred in the rehabilitation of income-producing historic structures, with an enhanced tax credit for income-producing historic structures that provide affordable housing units. (HB1533 HD1)

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

