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# A BILL FOR AN ACT

RELATING TO THE CAPITAL INFRASTRUCTURE TAX CREDIT.

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

1           SECTION 1. Section 235-17.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+]~~§235-17.5 ~~[+]~~ Capital infrastructure tax credit. (a)

4 There shall be allowed to each taxpayer subject to the taxes  
5 imposed by this chapter a capital infrastructure tax credit that  
6 shall be deductible from the taxpayer's net income tax  
7 liability, if any, imposed by this chapter for the taxable year  
8 in which the capital infrastructure costs were paid or incurred.

9           (b) For the purpose of this section:

10           "Base investment" means the amount of money invested by an  
11 investor.

12           "Capital infrastructure costs" means capital expenditures,  
13 as used in section 263 of the Internal Revenue Code and the  
14 regulations promulgated thereunder ~~[, provided that the]~~, or  
15 capital expenditures ~~[are]~~ for real property and fixtures that  
16 are paid or incurred in connection with the displaced tenant's  
17 move of the tenant's current active trade or business to the  
18 tenant's new location; provided ~~[further]~~ that the capital



1 infrastructure costs shall not include amounts for which another  
2 credit is claimed[-] under this chapter.

3 "Net income tax liability" means income tax liability  
4 reduced by all other credits allowed under this chapter.

5 "Qualified infrastructure tenant" means a business:

6 (1) That currently owns capital or property or maintains  
7 an office, operations, or facilities at the former  
8 Kapalama military reservation site;

9 (2) Whose principal business is maritime, and waterfront  
10 dependent, and is included under the State's plan to  
11 relocate the business to piers twenty-four through  
12 twenty-eight within Honolulu harbor; and

13 (3) Will be displaced and relocated by the State pursuant  
14 to the Kapalama container terminal project.

15 (c) The amount of the tax credit shall be equal to fifty  
16 per cent of the capital infrastructure costs paid or incurred by  
17 the qualified infrastructure tenant during the taxable year up  
18 to a maximum credit of \$2,500,000 [~~in capital infrastructure~~  
19 ~~costs in any taxable year~~], and provided that the qualified  
20 infrastructure tenant shall [~~notify the taxpayer claiming the~~  
21 ~~credit under subsection (a) of the amount of capital~~



1 ~~infrastructure costs which may be claimed.]~~ first have expended  
 2 \$40,000,000 within a taxable year prior to being eligible for  
 3 the tax credits provided by this section. Any qualified capital  
 4 infrastructure costs paid or incurred that result in a tax  
 5 credit in excess of \$2,500,000 in a given taxable year may be  
 6 used in subsequent taxable years for generation of the credit in  
 7 such subsequent year; provided that in no event may the credit  
 8 claimed in any one year exceed \$2,500,000 per qualified  
 9 infrastructure tenant; and provided further that in no event  
 10 shall the qualified infrastructure tenant generate a credit  
 11 under this section after December 31, 2019.

12 (d) In the case of an entity taxed as a partnership,  
 13 credit shall be determined at the entity level, but distribution  
 14 and share of the credit may be determined notwithstanding  
 15 section 704 of the Internal Revenue Code.

16 (e) The credit allowed under this section shall be claimed  
 17 against the net income tax liability for the taxable year. If  
 18 the tax credit under this section exceeds the taxpayer's income  
 19 tax liability, the excess of the tax credit over liability may  
 20 be used as a credit against the taxpayer's net income tax  
 21 liability in subsequent years until exhausted. All claims,



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

6 (f) This section shall not apply to taxable years  
7 beginning after December 31, 2019.

8 (g) Any credit claimed under this section shall be  
9 recaptured following the close of the taxable year for which the  
10 credit is claimed if ~~within~~:

11 (1) Within three years:

12 ~~[-1-]~~ (A) The qualified infrastructure tenant fails to  
13 continue the line of business it conducted as of  
14 July 1, 2014; or

15 ~~[-2-]~~ (B) The interest in the qualified infrastructure  
16 tenant, whether in whole or in part, has been sold,  
17 exchanged, withdrawn, or otherwise disposed of by the  
18 taxpayer claiming a credit under this section~~[-]~~; or

19 (2) The qualified infrastructure tenant fails to relocate  
20 from the former Kapalama military reservation site to  
21 another location, pursuant to a lease with the



1            department of transportation, within            days of the  
2            execution of the lease.

3    The recapture shall be equal to one hundred per cent of the  
4    amount of the total tax credit claimed under this section in the  
5    preceding five taxable years, and shall be added to the  
6    taxpayer's tax liability for the taxable year in which the  
7    recapture occurs pursuant to this subsection.

8            (h) The director of taxation shall prepare any forms that  
9    may be necessary to claim a credit under this section. The  
10   director may also require the taxpayer to furnish information to  
11   ascertain the validity of the claim for credit made under this  
12   section. The director of taxation may adopt rules to effectuate  
13   the purposes of this section pursuant to chapter 91.

14            (i) Any taxpayer claiming a tax credit under this section,  
15   within            days of submitting the claim for credit, shall  
16   submit the following information to the legislature:

- 17            (1) The amount of the tax credit claimed; and
- 18            (2) The qualified infrastructure tenant for which the tax  
19            credit is claimed."

20            SECTION 2. Statutory material to be repealed is bracketed  
21   and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2015, and  
2 shall apply to taxable years beginning after December 31, 2014.  
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**Report Title:**

Tax Credits; Capital Infrastructure; Honolulu Harbor

**Description:**

Sets the maximum amount of capital infrastructure tax credits that may be issued in any taxable year at \$2,500,000 per qualified infrastructure tenant. Allows any capital infrastructure costs that would result in a tax credit in excess of the maximum amount to be applied to subsequent tax years. Requires a qualified infrastructure tenant to expend \$40,000,000 within a taxable year before becoming eligible for the tax credit. Recaptures the tax credit if the qualified infrastructure tenant fails to relocate within an unspecified amount of time following the execution of a lease with the department of transportation. Requires taxpayers claiming the tax credit to submit information to the legislature. (SD1)

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

