
A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING TAX CREDITS.

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

1 SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§235-110.8 Low-income housing tax credit. (a) Section
4 42 (with respect to low-income housing credit) of the Internal
5 Revenue Code shall be operative for the purposes of this chapter
6 as provided in this section[-], except as provided in
7 subsections (i) and (j).

8 (b) Each taxpayer subject to the tax imposed by this
9 chapter, who has filed [+]a[+] net income tax return for a
10 taxable year may claim a low-income housing tax credit against
11 the taxpayer's net income tax liability. The amount of the
12 credit shall be deductible from the taxpayer's net income tax
13 liability, if any, imposed by this chapter for the taxable year
14 in which the credit is properly claimed on a timely basis. A
15 credit under this section may be claimed whether or not the
16 taxpayer claims a federal low-income housing tax credit pursuant
17 to section 42 of the Internal Revenue Code.



1 (c) The low-income housing tax credit shall be [~~fifty~~] one
2 hundred per cent of the applicable percentage of the qualified
3 basis of each building located in Hawaii. The applicable
4 percentage shall be calculated as provided in section 42(b) of
5 the Internal Revenue Code.

6 (d) For the purposes of this section, the determination
7 of:

- 8 (1) Qualified basis and qualified low-income building
9 shall be made under section 42(c);
- 10 (2) Eligible basis shall be made under section 42(d);
- 11 (3) Qualified low-income housing project shall be made
12 under section 42(g);
- 13 (4) Recapture of credit shall be made under section 42(j),
14 except that the tax for the taxable year shall be
15 increased under section 42(j)(1) only with respect to
16 credits that were used to reduce state income taxes;
- 17 (5) Application of at-risk rules shall be made under
18 section 42(k);
- 19 of the Internal Revenue Code.

20 (e) As provided in section 42(e), rehabilitation
21 expenditures shall be treated as separate new building and their
22 treatment under this section shall be the same as in



1 section 42(e). [~~The definitions and special rules relating to~~
2 ~~credit period in section 42(f) and the~~] The definitions and
3 special rules in section 42(i) shall be operative for the
4 purposes of this section.

5 (f) The definitions and special rules relating to credit
6 periods in section 42(f) shall be operative for the purposes of
7 this section; except that section 42(f)(1) of the Internal
8 Revenue Code shall be modified as follows: the term "credit
9 period" means, with respect to any building, the period of five
10 taxable years beginning with:

11 (1) The taxable year in which the building is placed in
12 service; or

13 (2) At the election of the taxpayer, the succeeding
14 taxable year;

15 provided that the building is a qualified low-income building as
16 of the close of the first year of such period. The election
17 under paragraph (2), once made, shall be irrevocable.

18 ~~[-f-]~~ (g) The state housing credit ceiling under section
19 42(h) shall be zero for the calendar year immediately following
20 the expiration of the federal low-income housing tax credit
21 program and for any calendar year thereafter, except for the
22 carryover of any credit ceiling amount for certain projects in



1 progress which, at the time of the federal expiration, meet the
2 requirements of section 42.

3 ~~(g)~~ (h) The credit allowed under this section shall be
4 claimed against net income tax liability for the taxable year.
5 For the purpose of deducting this tax credit, net income tax
6 liability means net income tax liability reduced by all other
7 credits allowed the taxpayer under this chapter.

8 A tax credit under this section which exceeds the
9 taxpayer's income tax liability may be used as a credit against
10 the taxpayer's income tax liability in subsequent years until
11 exhausted. All claims for a tax credit under this section must
12 be filed on or before the end of the twelfth month following the
13 close of the taxable year for which the credit may be claimed.
14 Failure to properly and timely claim the credit shall constitute
15 a waiver of the right to claim the credit. A taxpayer may claim
16 a credit under this section only if the building or project is a
17 qualified low-income housing building or a qualified low-income
18 housing project under section 42 of the Internal Revenue Code.

19 Section 469 (with respect to passive activity losses and
20 credits limited) of the Internal Revenue Code shall be applied
21 in claiming the credit under this section.



1 (i) In the case of any qualified low-income housing
2 project placed in service on or after January 1, 2009, section
3 42(b)(2)(B) of the Internal Revenue Code shall be modified as
4 follows: the percentages prescribed by the Secretary for any
5 month shall be percentages which will yield over a five-year
6 period amounts of credit under subsection (a) which have present
7 value equal to:

8 (1) Seventy per cent of the qualified basis of a building
9 described in section 42(b)(1)(A) (with respect to
10 low-income housing credit) of the Internal Revenue
11 Code; and

12 (2) Thirty per cent of the qualified basis of a building
13 described in section 42(b)(1)(B) (with respect to
14 low-income housing credit) of the Internal Revenue
15 Code.

16 For the purposes of this subsection the state housing credit
17 shall be one hundred per cent of the applicable percentage of
18 the qualified basis of each building located in Hawaii; provided
19 that the applicable percentage shall be calculated as provided
20 in section 42(b) of the Internal Revenue Code.

21 (j) In the case of any qualified low-income housing
22 project placed in service on or after January 1, 2009, section



1 42(f)(1) of the Internal Revenue Code shall be modified as
2 follows: the term "credit period" means, with respect to any
3 building, the period of five taxable years beginning with:

4 (1) The taxable year in which the building is placed in
5 service; or

6 (2) At the election of the taxpayer, the succeeding
7 taxable year;

8 provided that the building is a qualified low-income building as
9 of the close of the first year of that period. The election
10 under paragraph (2), once made, shall be irrevocable.

11 ~~[(h)]~~ (k) The director of taxation may adopt any rules
12 under chapter 91 and forms necessary to carry out this section."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on January 1, 2009
16 and apply to buildings placed in service after December 31,
17 2008.



Report Title:

Low-Income Housing; Tax Credits

Description:

Increases the low-income housing tax credit to one hundred per cent of the qualified basis for each building located in Hawaii and adds definitions and special rules that are operative to the low-income housing tax credit. (HB3059 SD3)

