

JAN 26 2009

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# A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

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

1           SECTION 1. The purpose of this Act is to provide  
2 additional incentives for the development of affordable housing  
3 by increasing the low-income housing tax credit from a one-time  
4 credit of fifty per cent to a one hundred per cent credit taken  
5 over five years.

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

8           "§235-110.8 Low-income housing tax credit. (a) Section  
9 42 (with respect to low-income housing credit) of the Internal  
10 Revenue Code shall be operative for the purposes of this chapter  
11 as provided in this section.

12           (b) Each taxpayer subject to the tax imposed by this  
13 chapter, who has filed [+]a[+] net income tax return for a  
14 taxable year may claim a low-income housing tax credit against  
15 the taxpayer's net income tax liability. The amount of the  
16 credit shall be deductible from the taxpayer's net income tax  
17 liability, if any, imposed by this chapter for the taxable year



1 in which the credit is properly claimed on a timely basis. A  
2 credit under this section may be claimed whether or not the  
3 taxpayer claims a federal low-income housing tax credit pursuant  
4 to section 42 (with respect to low-income housing credit) of the  
5 Internal Revenue Code.

6 (c) The low-income housing tax credit shall be [~~fifty per~~  
7 ~~cent of the applicable percentage of the qualified basis of each~~  
8 ~~building located in Hawaii.~~] as follows:

- 9 (1) In year one, thirty-five per cent of the applicable  
10 percentage of the qualified basis of each building  
11 located in Hawaii;
- 12 (2) In year two, twenty-five per cent of the applicable  
13 percentage of the qualified basis of each building  
14 located in Hawaii;
- 15 (3) In year three, twenty per cent of the applicable  
16 percentage of the qualified basis of each building  
17 located in Hawaii;
- 18 (4) In year four, ten per cent of the applicable  
19 percentage of the qualified basis of each building  
20 located in Hawaii; and



1           (5) In year five, ten per cent of the applicable  
2                   percentage of the qualified basis of each building  
3                   located in Hawaii,  
4 up to a maximum allowed credit in the year the investment was  
5 made, in year one, \$700,000; in year two, \$500,000; in year  
6 three, \$400,000; in year four, \$200,000; and in year five,  
7 \$200,000. The applicable percentage shall be calculated as  
8 provided in section 42(b) of the Internal Revenue Code.

9           (d) For the purposes of this section, the determination  
10 of:

11           (1) Qualified basis and qualified low-income building  
12                   shall be made under section 42(c);

13           (2) Eligible basis shall be made under section 42(d);

14           (3) Qualified low-income housing project shall be made  
15                   under section 42(g);

16           ~~[(4) Recapture of credit shall be made under section 42(j),~~  
17                   ~~except that the tax for the taxable year shall be~~  
18                   ~~increased under section 42(j)(1) only with respect to~~  
19                   ~~credits that were used to reduce state income taxes;~~

20           ~~(5)]~~ (4) Application of at-risk rules shall be made under  
21                   section 42(k);

22 of the Internal Revenue Code.



1       (e) If at the close of any taxable year in the five-year  
2 period in subsection (c) the qualified low-income housing  
3 building or qualified low-income housing project or an interest  
4 in the qualified low-income housing building or qualified  
5 low-income housing project has been sold by the taxpayer, the  
6 credit claimed under this section shall be recaptured. The  
7 recapture shall be equal to ten per cent of the amount of the  
8 total tax credit claimed under this section in the preceding two  
9 taxable years. The amount of the recaptured tax credit  
10 determined under this subsection shall be added to the  
11 taxpayer's tax liability for the taxable year in which the  
12 recapture occurs under this subsection.

13       ~~[-(e)]~~ (f) As provided in section 42(e), rehabilitation  
14 expenditures shall be treated as separate new building and their  
15 treatment under this section shall be the same as in section  
16 42(e). The definitions and special rules relating to credit  
17 period in section 42(f) and the definitions and special rules in  
18 section 42(i) shall be operative for the purposes of this  
19 section.

20       ~~[-(f)]~~ (g) The state housing credit ceiling under section  
21 42(h) shall be zero for the calendar year immediately following  
22 the expiration of the federal low-income housing tax credit



1 program and for any calendar year thereafter, except for the  
2 carryover of any credit ceiling amount for certain projects in  
3 progress which, at the time of the federal expiration, meet the  
4 requirements of section 42.

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

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



# S.B. NO. 1118

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

4           ~~[-(h)]~~ (i) The director of taxation may adopt any rules  
 5 under chapter 91 and forms necessary to carry out this section."

6           SECTION 3. Statutory material to be repealed is bracketed  
 7 and stricken. New statutory material is underscored.

8           SECTION 4. This Act, upon its approval, shall apply to  
 9 taxable years beginning after December 31, 2008.

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INTRODUCED BY:

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**Report Title:**

Low-Income Housing; Tax Credit

**Description:**

Provides additional incentives for the development of affordable housing by increasing the low-income housing tax credit from a one-time credit of fifty per cent to a one hundred per cent credit taken over five years.

