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## A BILL FOR AN ACT

RELATING TO TAX CREDITS.

**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-       New markets tax credit. (a) There shall be  
5 allowed to each taxpayer subject to the tax imposed by this  
6 chapter who is not claimed, or is not otherwise eligible to be  
7 claimed, as a dependent by another taxpayer for federal or state  
8 income tax purposes, and who holds a qualified equity investment  
9 on a credit allowance date of that investment, which occurs  
10 during the taxable year, may claim a credit against the  
11 taxpayer's net income tax liability for the taxable year. The  
12 amount of the credit shall be deductible from the taxpayer's net  
13 income tax liability, if any, imposed by this chapter for the  
14 taxable year in which the credit is properly claimed.

15           (b) The amount of the credit shall be equal to the  
16 applicable percentage of the amount paid to the qualified  
17 community development entity for the investment at its original  
18 issue. As used in this section, "applicable percentage" means:



1        (1) Five per cent with respect to the first three credit  
2                    allowance dates; and

3        (2) Six per cent with respect to the remainder of the  
4                    credit allowance dates.

5        (c) An application for a new markets tax credit shall be  
6                    submitted to the director of taxation on forms prescribed by the  
7                    director of taxation.

8        (d) The credit allowed under this section shall be claimed  
9                    against net income tax liability for the taxable year. For the  
10                   purposes of this section, "net income tax liability" means net  
11                   income tax liability reduced by all other credits claimed by the  
12                   taxpayer under this chapter.

13        A tax credit under this section that exceeds the taxpayer's  
14                   net income tax liability may be used as a credit against the  
15                   taxpayer's income tax liability in subsequent years until  
16                   exhausted. All claims for a tax credit under this section shall  
17                   be filed on or before the end of the twelfth month following the  
18                   close of the taxable year for which the credit may be claimed.  
19                   Failure to properly and timely claim the credit shall constitute  
20                   a waiver of the right to claim the credit.



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

4        (e) All references to section 45D of the Internal Revenue  
5 Code, to the extent not inconsistent with this section, shall be  
6 operative for purposes of this section.

7        (f) The director of taxation may adopt rules under chapter  
8 91 and prepare any forms necessary to carry out this section."

9        SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11        "(b) The following Internal Revenue Code subchapters,  
12 parts of subchapters, sections, subsections, and parts of  
13 subsections shall not be operative for the purposes of this  
14 chapter, unless otherwise provided:

15        (1) Subchapter A (sections 1 to 59A) (with respect to  
16 determination of tax liability), except section  
17 1(h)(2) (relating to net capital gain reduced by the  
18 amount taken into account as investment income),  
19 except sections 2(a), 2(b), and 2(c) (with respect to  
20 the definition of "surviving spouse" and "head of  
21 household"), except section 41 (with respect to the  
22 credit for increasing research activities), except



1 section 42 (with respect to low-income housing  
2 credit), except section 45D (with respect to new  
3 markets tax credit), and except sections 47 and 48, as  
4 amended, as of December 31, 1984 (with respect to  
5 certain depreciable tangible personal property). For  
6 treatment, see sections 235-110.91, 235-110.7, [~~and~~]  
7 235-110.8[+], and 235- ;

8 (2) Section 78 (with respect to dividends received from  
9 certain foreign corporations by domestic corporations  
10 choosing foreign tax credit);

11 (3) Section 86 (with respect to social security and tier 1  
12 railroad retirement benefits);

13 (4) Section 103 (with respect to interest on state and  
14 local bonds). For treatment, see section 235-7(b);

15 (5) Section 114 (with respect to extraterritorial income).

16 For treatment, any transaction as specified in the  
17 transitional rule for 2005 and 2006 as specified in  
18 the American Jobs Creation Act of 2004 section 101(d)  
19 and any transaction that has occurred pursuant to a  
20 binding contract as specified in the American Jobs  
21 Creation Act of 2004 section 101(f) are inoperative;



- 1           (6) Section 120 (with respect to amounts received under  
2           qualified group legal services plans). For treatment,  
3           see section 235-7(a)(9) to (11);
- 4           (7) Section 122 (with respect to certain reduced uniformed  
5           services retirement pay). For treatment, see section  
6           235-7(a)(3);
- 7           (8) Section 135 (with respect to income from United States  
8           savings bonds used to pay higher education tuition and  
9           fees). For treatment, see section 235-7(a)(1);
- 10          (9) Subchapter B (sections 141 to 150) (with respect to  
11          tax exemption requirements for state and local bonds);
- 12          (10) Section 151 (with respect to allowance of deductions  
13          for personal exemptions). For treatment, see section  
14          235-54;
- 15          (11) Section 179B (with respect to expensing of capital  
16          costs incurred in complying with Environmental  
17          Protection Agency sulphur regulations);
- 18          (12) Section 181 (with respect to special rules for certain  
19          film and television productions);
- 20          (13) Section 196 (with respect to deduction for certain  
21          unused investment credits);



- 1 (14) Section 199 (with respect to the U.S. production  
2 activities deduction);
- 3 (15) Section 222 (with respect to qualified tuition and  
4 related expenses);
- 5 (16) Sections 241 to 247 (with respect to special  
6 deductions for corporations). For treatment, see  
7 section 235-7(c);
- 8 (17) Section 280C (with respect to certain expenses for  
9 which credits are allowable). For treatment, see  
10 section 235-110.91;
- 11 (18) Section 291 (with respect to special rules relating to  
12 corporate preference items);
- 13 (19) Section 367 (with respect to foreign corporations);
- 14 (20) Section 501(c)(12), (15), (16) (with respect to exempt  
15 organizations);
- 16 (21) Section 515 (with respect to taxes of foreign  
17 countries and possessions of the United States);
- 18 (22) Subchapter G (sections 531 to 565) (with respect to  
19 corporations used to avoid income tax on  
20 shareholders);
- 21 (23) Subchapter H (sections 581 to 597) (with respect to  
22 banking institutions), except section 584 (with



- 1           respect to common trust funds). For treatment, see  
2           chapter 241;
- 3           (24) Section 642(a) and (b) (with respect to special rules  
4           for credits and deductions applicable to trusts). For  
5           treatment, see sections 235-54(b) and 235-55;
- 6           (25) Section 646 (with respect to tax treatment of electing  
7           Alaska Native settlement trusts);
- 8           (26) Section 668 (with respect to interest charge on  
9           accumulation distributions from foreign trusts);
- 10          (27) Subchapter L (sections 801 to 848) (with respect to  
11          insurance companies). For treatment, see sections  
12          431:7-202 and 431:7-204;
- 13          (28) Section 853 (with respect to foreign tax credit  
14          allowed to shareholders). For treatment, see section  
15          235-55;
- 16          (29) Subchapter N (sections 861 to 999) (with respect to  
17          tax based on income from sources within or without the  
18          United States), except sections 985 to 989 (with  
19          respect to foreign currency transactions). For  
20          treatment, see sections 235-4, 235-5, and 235-7(b),  
21          and 235-55;



- 1       (30) Section 1042(g) (with respect to sales of stock in  
2           agricultural refiners and processors to eligible farm  
3           cooperatives);
- 4       (31) Section 1055 (with respect to redeemable ground  
5           rents);
- 6       (32) Section 1057 (with respect to election to treat  
7           transfer to foreign trust, etc., as taxable exchange);
- 8       (33) Sections 1291 to 1298 (with respect to treatment of  
9           passive foreign investment companies);
- 10      (34) Subchapter Q (sections 1311 to 1351) (with respect to  
11          readjustment of tax between years and special  
12          limitations);
- 13      (35) Subchapter R (sections 1352 to 1359) (with respect to  
14          election to determine corporate tax on certain  
15          international shipping activities using per ton rate);
- 16      (36) Subchapter U (sections 1391 to 1397F) (with respect to  
17          designation and treatment of empowerment zones,  
18          enterprise communities, and rural development  
19          investment areas). For treatment, see chapter 209E;
- 20      (37) Subchapter W (sections 1400 to 1400C) (with respect to  
21          District of Columbia enterprise zone);





- 1 (38) Section 14000 (with respect to education tax  
2 benefits);
- 3 (39) Section 1400P (with respect to housing tax benefits);
- 4 (40) Section 1400R (with respect to employment relief); and
- 5 (41) Section 1400T (with respect to special rules for  
6 mortgage revenue bonds)."

7 SECTION 3. Section 235-2.45, Hawaii Revised Statutes, is  
8 amended by amending subsection (d) to read as follows:

9 "(d) Section 704 of the Internal Revenue Code (with  
10 respect to a partner's distributive share) shall be operative  
11 for purposes of this chapter; except that section 704(b) (2)  
12 shall not apply to:

13 (1) Allocations of the high technology business investment  
14 tax credit allowed by section 235-110.9 for  
15 investments made before May 1, 2009;

16 (2) Allocations of net operating loss pursuant to section  
17 235-111.5;

18 (3) Allocations of the attractions and educational  
19 facilities tax credit allowed by section 235-110.46;  
20 [~~or~~]

21 (4) Allocations of low-income housing tax credits among  
22 partners under section 235-110.8 [~~-~~]; or



1        (5) Allocations of new markets tax credits among partners  
2        under section 235- ."

3        SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5        SECTION 5. This Act shall take effect upon its approval  
6 and shall apply to taxable years beginning after December 31,  
7 2009.

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INTRODUCED BY:

[Handwritten Signature]  
[Handwritten Signature]  
[Handwritten Signature]  
[Handwritten Signature]  
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JAN 20 2010



**Report Title:**

New Markets Tax Credit

**Description:**

Creates a state new markets tax credit and allows multiple tax credit claims for partners.

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

