
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 income tax credit. (a)
5 Notwithstanding any law to the contrary, there shall be allowed
6 to each taxpayer subject to the tax imposed by this chapter a
7 historic preservation income tax credit that shall be deductible
8 from the taxpayer's net income tax liability, if any, imposed by
9 this chapter for the taxable year in which the tax credit is
10 properly claimed.

11 (b) In the case of a partnership, S corporation, estate,
12 trust, or any developer of a rehabilitated certified historic
13 structure, the tax credit allowable shall be as provided under
14 subsection (d) for the taxable year. The cost upon which the
15 credit is computed shall be determined at the entity level and
16 the distribution and share of the tax credit shall be determined
17 pursuant to section 704(b) of the Internal Revenue Code.



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

5 The basis of eligible property for depreciation or
6 accelerated cost recovery system purposes for state income taxes
7 shall be reduced by the amount of credit allowable and claimed.
8 In the alternative, the taxpayer shall treat the amount of the
9 credit allowable and claimed as a taxable income item for the
10 taxable year in which it is properly recognized under the method
11 of accounting used to compute taxable income.

12 (c) The amount of a historic preservation income tax
13 credit that is certified by qualified staff of the state
14 historic preservation division of the department of land and
15 natural resources shall be:

16 (1) Twenty-five per cent of the qualified rehabilitation
17 expenditures; or

18 (2) Thirty per cent of the qualified rehabilitation
19 expenditures in the event that:

20 (A) At least twenty per cent of the units are
21 affordable rental housing;



1 (B) At least ten per cent of the units are affordable
2 homeownership units; or

3 (C) In a structure with mixed residential and non-
4 residential uses, at least thirty per cent of the
5 total square footage of the structure is
6 affordable rental housing, affordable
7 homeownership units, or both.

8 (d) The tax credit allowed under this section shall be
9 available in the taxable year in which the substantially
10 rehabilitated certified historic structure is placed into
11 service. In the case of projects completed in phases, the tax
12 credit shall be prorated to the substantially rehabilitated
13 identifiable portion of the certified historic structure placed
14 into service during that taxable year.

15 (e) If the tax credit under this section exceeds the
16 taxpayer's income tax liability, the excess of the credit over
17 liability may be used as a credit against the taxpayer's income
18 tax liability in subsequent years until either the credit is
19 exhausted, or for a period of ten years, whichever is earlier.

20 All claims for the tax credit under this section, including
21 amended claims, shall be filed on or before the end of the



1 twelfth month following the close of the taxable year for which
2 the credit may be claimed. Failure to comply with the foregoing
3 provision shall constitute a waiver of the right to claim the
4 credit.

5 (f) The state historic preservation division shall adopt
6 rules pursuant to chapter 91 establishing standards and criteria
7 for the approval of rehabilitation of certified historic
8 structures for which the tax credit under this section is
9 sought. These standards and criteria shall take into account
10 whether the rehabilitation of a certified historic structure
11 will preserve the historic character of the building.

12 (g) Following the completion of rehabilitation of a
13 certified historic structure, the taxpayer shall notify the
14 state historic preservation division that the rehabilitation has
15 been completed. The taxpayer shall provide the state historic
16 preservation division with documentation of the costs incurred
17 in rehabilitating the historic structure and shall submit
18 certification of the costs incurred in rehabilitating the
19 historic structure. Qualified staff of the state historic
20 preservation division shall review the rehabilitation and verify



1 the rehabilitation project's compliance with the rehabilitation
2 plan.

3 Upon each determination made under this subsection, the
4 state historic preservation division shall issue a certificate
5 to the taxpayer verifying that the rehabilitation has been
6 completed in accordance with the approved rehabilitation plan.

7 The taxpayer shall file the certificate with the taxpayer's tax
8 return with the department.

9 The department of land and natural resources may assess and
10 collect a fee to offset the costs of certifying tax credit
11 claims under this section. All fees collected under this
12 section shall be deposited into the Hawaii historic preservation
13 special fund established under section 6E-16.

14 (h) The director of taxation shall prepare any forms that
15 may be necessary to claim the tax credit under this section.

16 The director may also require the taxpayer to furnish reasonable
17 information to ascertain the validity of the claim for credit
18 made under this section and may adopt rules necessary to
19 effectuate the purposes of this section pursuant to chapter 91.

20 (i) The aggregate amount of the tax credits claimed for
21 qualified rehabilitation projects shall not exceed:



- 1 (1) \$ _____ for the 2020 taxable year;
- 2 (2) \$ _____ for the 2021 taxable year;
- 3 (3) \$ _____ for the 2022 taxable year;
- 4 (4) \$ _____ for the 2023 taxable year; and
- 5 (5) \$ _____ for the 2024 taxable year and every year
- 6 thereafter.

7 (j) On an annual basis, the state historic preservation
 8 division, in consultation with the department of taxation, shall
 9 determine the information necessary to enable a quantitative and
 10 qualitative assessment of the outcomes of the tax credit.

11 Each taxpayer claiming a tax credit under this section, no
 12 later than the last day of the twelfth month following the close
 13 of the taxable year in which qualified costs were expended,
 14 shall submit a written, certified statement to the state
 15 historic preservation division containing the qualified
 16 rehabilitation expenditures incurred by the taxpayer and any
 17 other information the state historic preservation division or
 18 department of taxation may require.

19 Any taxpayer failing to submit information to the state
 20 historic preservation division in a manner prescribed by the
 21 state historic preservation division prior to the last day of



1 the twelfth month following the close of the tax year in which
2 qualified costs were expended shall not be eligible to receive
3 the tax credit for those expenses, and any credit already
4 claimed for that taxable year shall be recaptured in total. The
5 amount of the recaptured tax credit shall be added to the
6 taxpayer's tax liability for the taxable year in which the
7 recapture occurs.

8 All information in the statement submitted under this
9 section shall be a public document, except for information that
10 is otherwise exempt from public disclosure in accordance with
11 chapter 92F.

12 (k) Recapture of a previously claimed tax credit shall be
13 required from any taxpayer who received a credit under this
14 section if any of the following occur:

- 15 (1) The projected qualified expenditures do not
16 materialize;
- 17 (2) The rehabilitation of the certified historic structure
18 does not proceed in a timely manner and in accordance
19 with the approved rehabilitation plan; or
- 20 (3) In the case of the thirty per cent tax credit under
21 subsection (c) (2):



1 (A) Less than twenty per cent of the units qualify as
2 affordable rental housing; or

3 (B) Less than ten per cent of the units qualify as
4 affordable homeownership units.

5 Any credit under this section shall be recaptured following
6 the close of the taxable year for which the credit is claimed if
7 the department of land and natural resources notifies the
8 department that the taxpayer has failed to comply with the
9 requirements of this section or its related rules promulgated by
10 the state historic preservation division.

11 (1) On an annual basis, the state historic preservation
12 division, in consultation with the department of taxation, shall
13 submit a report to the legislature evaluating the effectiveness
14 of the tax credit no later than twenty days prior to the
15 convening of each regular legislative session. The report shall
16 include findings and recommendations to improve the
17 effectiveness of the tax credit in order to further encourage
18 the rehabilitation of historic properties.

19 (m) For the purposes of this section:

20 "Affordable homeownership units" means housing that meets
21 the guidelines published by the United States Department of



1 Housing and Urban Development for the year in which the units
2 are initially offered for sale.

3 "Affordable rental housing" means rental housing that meets
4 the guidelines published by the United States Department of
5 Housing and Urban Development for the year in which the units
6 are put into service.

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

- 8 (1) Individually listed in the Hawaii register of historic
9 places or the national register of historic places;
10 (2) Located in a historic district that is listed in the
11 Hawaii register of historic places or the national
12 register of historic places, and certified by the
13 state historic preservation division as contributing
14 to the significance of the historic district; or
15 (3) A structure that the state historic preservation
16 division has determined to be eligible for inclusion
17 in the Hawaii register of historic places, and that is
18 subsequently listed in the Hawaii register of historic
19 places by the date of certification by the
20 administrator of the state historic preservation
21 division in accordance with subsection (g).



1 "Qualified rehabilitation expenditures" means any costs
2 incurred for the physical rehabilitation, renovation, or
3 construction of a certified historic structure pursuant to a
4 rehabilitation plan; provided that the term shall not include
5 the taxpayer's personal labor.

6 "Qualified staff" means a staff person meeting the
7 Secretary of the Interior's Historic Preservation Professional
8 Qualification Standards for an architectural historian or
9 historic architect.

10 "Rehabilitation plan" means any construction plans and
11 specifications for the proposed rehabilitation of a historic
12 structure in sufficient detail for evaluation of compliance with
13 the rules adopted by the state historic preservation division.

14 "Substantial rehabilitation" means that the qualified
15 rehabilitation expenditures on a certified historic structure
16 exceed twenty-five per cent of the assessed value of the
17 structure."

18 SECTION 2. There is established within the state historic
19 preservation division of the department of land and natural
20 resources one temporary position to assist with the
21 establishment and administration of the historic preservation

1 income tax credit program. The authorization for this temporary
2 position shall expire at the end of fiscal year.

3 SECTION 3. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$85,000 or so much
5 thereof as may be necessary for fiscal year 2019-2020 and the
6 same sum or so much thereof as may be necessary for fiscal year
7 2020-2021 for one temporary position in the state historic
8 preservation division to assist with the establishment and
9 administration of the historic preservation income tax credit
10 program.

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

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on January 1, 2020;
15 provided that section 3 shall take effect on July 1, 2019.



Report Title:

State Historic Preservation; DLNR; DOTAX; Appropriation

Description:

Establishes a historic preservation income tax credit.
Appropriates funds for one temporary position to assist with the establishment and administration of the historic preservation income tax credit program. Effective on 1/1/2020. (SD1)

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