
A BILL FOR AN ACT

RELATING TO HISTORIC STRUCTURES.

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

SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§6E- Historic preservation revolving fund. (a) There is established the historic preservation revolving fund, into which shall be deposited:

- (1) All legislative appropriations to the historic preservation revolving fund; and
- (2) All county appropriations to the historic preservation revolving fund;

provided that, for each fiscal year, all legislative appropriations to the historic preservation revolving fund shall equal one-half of all county appropriations to the historic preservation revolving fund.

(b) The historic preservation revolving fund shall be administered by the state historic preservation division. Moneys in the revolving fund shall be expended for the historic preservation income tax credit under section 235- ; provided that:

- (1) Moneys in the fund equal to the total amount of historic preservation income tax credits approved in the previous year shall be paid to the credit of the general fund on an annual basis;
- (2) The director of taxation shall report annually to the state historic preservation division on the total amount of the historic preservation income tax credits approved in the previous year; and
- (3) The director of taxation and the state historic preservation division each may adopt rules pursuant to chapter 91 to effectuate this section."

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235- Historic preservation income tax credit. (a) Any law to the contrary notwithstanding, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter an income tax credit, which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the tax credit is properly claimed. For each rehabilitation plan approved by qualified staff of the state historic preservation division of the department of land and natural resources, the amount of the tax credit shall be:

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

(2) Thirty per cent of the projected qualified expenditures for rehabilitation plans; provided that:

(A) At least twenty per cent of the units are rental units and qualify as affordable housing; or

(B) At least ten per cent of the units are individual homeownership units and qualify as affordable housing.

(b) The tax credit allowed under this section shall be available in the tax year in which the substantially rehabilitated historic structure is placed in service. In the case of projects completed in phases, the tax credit shall be prorated to the substantially rehabilitated identifiable portion of the building placed in service.

(c) In the case of a partnership, S corporation, estate, trust, or any developer of a rehabilitated historic structure, the tax credit allowable shall be as provided under subsection (b) for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level and the distribution and share of the tax credit shall be determined pursuant to section 235-110.7(a).

(d) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credits over liability shall be refunded to the taxpayer, provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(e) All claims, including any amended claims, for tax credits under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(f) Qualified staff of the state historic preservation division shall develop standards and criteria for the approval of rehabilitation plans for certified historic structures for which the tax credit under this section is sought. The standards and criteria shall take into account whether the rehabilitation plan of a certified historic structure will preserve the historic character of the building.

(g) Following the completion of rehabilitation of a certified historic structure, the taxpayer shall notify the state historic preservation division that the rehabilitation has been completed. The taxpayer shall provide the state historic preservation division with documentation of the costs incurred in rehabilitating the historic structure and shall submit certification of the costs incurred in rehabilitating the historic structure. Qualified staff of the state historic preservation division shall review the rehabilitation and verify its compliance with the rehabilitation plan.

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

(i) The aggregate amount of tax credits claimed for qualified rehabilitation projects shall not exceed \$ _____ per taxable year and the Hawaii historic places review board shall be required to monitor, and inform the department of taxation of, the annual projected tax credit amount.

(j) The state historic preservation division, in consultation with the department of taxation, on an annual basis, shall determine the type of information that is necessary to enable a quantitative and qualitative assessment of the outcomes of an application for the tax credit.

Every taxpayer claiming a tax credit under this section, no later than the last day of the twelfth month following the close of the taxable year in which qualified costs were expended, shall submit a written, certified statement to the Hawaii historic places review board.

Any taxpayer failing to submit information to the state historic preservation division in the manner prescribed by the state historic preservation division prior to the last day of the twelfth month following the close of the taxable year in which qualified costs were expended shall not be eligible to receive the tax credit, and any credit already claimed for the taxable year shall be recaptured in total. The amount of the recaptured tax credit shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs.

Notwithstanding any law to the contrary, a statement submitted under this subsection shall be a public document.

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

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

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

(B) Less than ten per cent of the units are individual homeownership units that qualify as affordable housing.

(1) The state historic preservation division, in consultation with the department of taxation, shall submit a report to the legislature evaluating the effectiveness of the tax credit no later than twenty days prior to the convening of each regular session. The report shall include but not be limited to findings and recommendations to improve the effectiveness of the tax credit in order to further encourage the rehabilitation of historic properties.

(m) For the purposes of this section:

"Certified historic structure" means any structure that is:

(1) Listed individually in the Hawaii register of historic places or the national register of historic places; or

(2) Located in a registered historic district and certified by the state historic preservation division as contributing to the historic significance of the district.

"Qualified rehabilitation expenditures" means any costs incurred for the physical construction involved in the rehabilitation of a historic structure for mixed residential and nonresidential uses; provided that at least thirty per cent of the total square footage of the rehabilitated structure is placed into service for residential use. Qualified rehabilitation expenditures shall not include:

(1) The taxpayer's personal labor;

(2) The cost of a new addition, except as required to comply with the applicable county building code or fire safety code; or

(3) Any non-construction cost, such as architectural fees, legal fees, or financing fees.

"Qualified staff of the state historic preservation division" means a staff member who meets the National Park Service, Secretary of the Interior's standards for architectural historian or historic architect.

"Rehabilitation plan" means any construction plans and specifications for the proposed rehabilitation of a historic structure in sufficient detail for evaluation pursuant to the standards and criteria for approval of rehabilitation plans developed by the state historic preservation division.

"Substantial rehabilitation" means the qualified rehabilitation expenditures of a historic structure that exceed twenty-five per cent of the assessed value of the structure."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2012.

INTRODUCED BY: _____