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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

SECTION 1. 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) Notwithstanding any law to the contrary, there shall be allowed to each taxpayer subject to tax imposed by this chapter an income tax credit that 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 for a certified historic property that is certified by qualified professional staff of the department of land and natural resources' state historic preservation division, the amount of the tax credit shall be:

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

(2) Thirty per cent of the qualified expenditures in the event 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 taxable year in which the substantially rehabilitate structure is placed into 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 into service during that taxable year.

(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 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 704(b) of the Internal Revenue Code.

(d) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over the liability shall be refunded to the taxpayer; provided that no refund on account of the tax credit allowed by this section shall be refunded for an amount less than \$1. All claims, including any amended claims, for the tax credit 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 foregoing provision shall constitute a waiver of the right to claim the credit.

(e) The state historic preservation division shall develop rules pursuant to chapter 91 for the approval of rehabilitation of certified historic structures for which the tax credit under this section is sought. These standards and criteria shall take into account whether the rehabilitation of a certified historic structure will preserve the historic character of the building.

(f) Following the completion of rehabilitation of a certified historic structure, the owner shall notify the state historic preservation division that the rehabilitation has been completed. The owner 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. The state historic preservation division shall review the rehabilitation and verify that the rehabilitation project complied with the rehabilitation plan. The administrator of the state historic preservation division shall certify in writing that the rehabilitation has been completed in accordance with the approved rehabilitation plan, and provide that certification to both the project proponent and the director of taxation.

(g) The director of taxation shall prepare any forms that may be necessary to claim the tax credit under this section. The director may also require the taxpayer to furnish reasonable 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.

(h) The aggregate amount of the tax credits claimed for qualified tax credits claimed for qualified rehabilitation projects for not exceed:

(1) \$ \_\_\_\_\_ for the 2020 tax year;

(2) \$ \_\_\_\_\_ for the 2021 tax year;

(3) \$ \_\_\_\_\_ for the 2022 tax year;

(4) \$ \_\_\_\_\_ for the 2023 tax year; and

(5) \$ \_\_\_\_\_ for the 2024 tax year and every year thereafter.

The state historic preservation division shall be required to monitor and advise the department of taxation of the projected tax credit amount projected each year.

(i) On an annual basis, the state historic preservation division, in consultation with the department of taxation, shall determine the information necessary to enable a quantitative and qualitative assessment of the outcomes of the tax credit to be determined. Each taxpayer claiming this credit shall, no later than the last day of the taxable year following the close of the tax year in which qualified costs were expended, submit a written, certified statement to the state historic preservation division containing the qualified rehabilitation expenditures incurred by the taxpayer and any other information the state historic preservation division or department of taxation may require.

Any taxpayer failing to submit information to the state historic preservation division in a manner prescribed by the state historic preservation division prior to the last day of the taxable year following the close of the tax year in which the qualified costs were expended shall not be eligible to receive the tax credit for those expenses, and any credit already claimed for that 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.

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

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

- (1) The projected qualified expenditures do not materialize;
- (2) The qualified rehabilitation plans do not proceed in a timely manner and in accordance with the approved plans;
- (3) In the case of the thirty per cent tax credit, less than twenty per cent of the units qualify as affordable rental housing; or
- (4) In the case of the twenty per cent tax credit, less than ten per cent of the units qualify as affordable homeownership units.

(k) On an annual basis, the state historic preservation division, in consultation with the department of taxation, shall

submit a report to the legislature at least twenty days prior to the convening of each regular legislative session evaluating the effectiveness of the tax credit. The report shall include findings and recommendations to improve the effectiveness of the tax credit to further encourage the rehabilitation of historic properties.

(1) For the purposes of this section:

"Affordable homeownership units" means housing that meets the guidelines published by the United States Department of Housing and Urban Development for the year in which the units are initially offered for sale.

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

"Certified historic structure" means any structure that is:

(1) Individually listed in the Hawaii register of historic places or the national register of historic places;

(2) Located in a historic district listed in the Hawaii register of historic places or the national register of historic places and certified by the state historic preservation division as contributing to the significance of the historic district; or

(3) A structure that the state historic preservation division has determined is eligible for inclusion in the Hawaii register of historic places, and which is listed in that register by the date of certification by the administrator of the state historic preservation division in accordance with subsection (f).

"Qualified rehabilitation expenditures" means any costs incurred for the physical construction involved in the certified

rehabilitation of a certified historic structure; provided that for projects involving mixed residential and non-residential uses, at least thirty per cent of the total square footage of the rehabilitation is placed into service for residential use. "Qualified rehabilitation expenditures" shall not include the owner's personal labor.

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

"Rehabilitation plan" means any construction plans and specification for the proposed rehabilitation of a historic structure in sufficient detail for evaluation of compliance with the rules adopted 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 2. There is hereby established one temporary position in the state historic preservation division to assist with the establishment and administration of the Hawaii historic preservation income tax credit program. The authorization for this temporary position shall expire at the end of fiscal year .

SECTION 3. The department of land and natural resources shall be authorized to collect reasonable fees to defray the expenses incurred as reviewing and certifying plans pursuant to carrying out section 235- , Hawaii Revised Statutes. Fees collected for these purposes shall be deposited into the Hawaii

historic preservation special fund established pursuant to section 6E-16, Hawaii Revised Statutes.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for one temporary position in the state historic preservation division to assist with the establishment and administration of the Hawaii historic preservation income tax credit program pursuant to this Act.

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

SECTION 5. New statutory material is underscored.

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2019; provided that sections 2 and 3 shall take effect on July 1, 2019.

INTRODUCED BY: \_\_\_\_\_

**Report Title:**

Historic Preservation; Rehabilitation; Tax Credit; Appropriation

**Description:**

Establishes a historic preservation income tax credit. Appropriates funds for one temporary position to assist with the establishment and administration of the Hawaii historic preservation income tax credit program.



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