
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- Kakaako aquarium tax credit. (a) There shall be
5 allowed to each qualified taxpayer subject to the taxes imposed
6 by this chapter or chapter 237, 237D, 238, 239, 241, or 431, a
7 tax credit that may be claimed for taxable years beginning after
8 December 31, 2006, for qualified costs in the development of a
9 world-class aquarium at Kakaako makai on Oahu. The tax credit
10 shall be deductible from the taxpayer's net income tax
11 liability, if any, imposed by this chapter and, at the election
12 of the taxpayer, from the tax liability imposed by chapter 237,
13 237D, 238, 239, 241, or 431.

14 (b) The tax credit earned shall be equal to the qualified
15 costs incurred from July 1, 2007, through June 30, 2013, up to a
16 maximum of \$75,000,000 of credits in the aggregate for all
17 qualified taxpayers for all years; provided that notwithstanding
18 the amount of tax credits earned in any year, a maximum of



1 \$7,500,000 of tax credits in the aggregate for all qualified
2 taxpayers may be used in any one taxable year. The credits over
3 \$7,500,000 shall be used as provided in subsection (d).

4 In the case of a partnership, limited liability company, S
5 corporation, estate, trust, or association of apartment owners,
6 the tax credit allowable is for qualified costs incurred by the
7 entity. The costs upon which the tax credit is computed shall
8 be determined at the entity level.

9 (c) To qualify for the tax credit, a taxpayer shall:

10 (1) Have expended qualified costs to develop a world-class
11 aquarium at Kakaako makai on Oahu pursuant to this
12 section;

13 (2) Dedicate one-half of the net operating income of the
14 world-class aquarium to the State, beginning on the
15 first day of the seventeenth year following the
16 opening of the aquarium; and

17 (3) Be in compliance with all applicable federal, state,
18 and county laws, ordinances, rules, and regulations.

19 (d) If the tax credit under this section exceeds
20 \$7,500,000 in the aggregate for all qualified taxpayers for any
21 taxable year or exceeds the taxpayer's tax liability under this
22 chapter or chapter 237, 237D, 238, 239, 241, or 431 for any year



1 year for which the credit is taken, the excess of the tax credit
2 may be used as a credit against the taxpayer's tax liability for
3 the taxes set forth in this section in subsequent years until
4 exhausted; provided that the taxpayer may continue to claim the
5 credit provided in this section if the qualified costs are
6 incurred before July 1, 2013, subject to the monetary ceilings
7 in subsection (b).

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

14 (f) If, at any time during the six-year period in which
15 tax credits are earned under this section, the costs incurred no
16 longer meet the definition of qualified costs, the credits
17 claimed under this section shall be recaptured. The recapture
18 shall be equal to one hundred per cent of the total tax credits
19 claimed under this section for the preceding taxable year;
20 provided that the amount of the credits recaptured shall apply
21 only to those costs that no longer meet the definition of
22 qualified costs. The amount of the recaptured tax credits



1 determined under this subsection shall be added to the
2 taxpayer's tax liability for the taxable year in which the
3 recapture occurs under this subsection.

4 (g) If any credit is claimed under this section, then no
5 taxpayer shall claim a credit under any chapter identified in
6 this section for the same qualified costs for which a credit is
7 claimed under this section.

8 (h) Every qualified taxpayer, no later than March 31 of
9 each year in which qualified costs were expended in the previous
10 taxable year, shall submit a written, certified statement to the
11 director of business, economic development, and tourism, in the
12 form specified by the director of business, economic
13 development, and tourism, identifying:

14 (1) Qualified costs, if any, expended in the previous
15 taxable year;

16 (2) The amount of tax credits claimed pursuant to this
17 section, if any, in the previous taxable year; and

18 (3) The tax liability under this chapter or chapter 237,
19 237D, 238, 239, 241, or 431 against which the tax
20 credits are claimed.

21 Any other law to the contrary notwithstanding, a statement
22 submitted under this subsection shall be a public document.



1 (i) The department of business, economic development, and
2 tourism shall maintain records of the names of taxpayers
3 eligible for the credits and the total amount of qualified costs
4 incurred from July 1, 2007, through June 30, 2013. The
5 department of business, economic development, and tourism shall
6 verify all qualified costs and, upon each determination, shall
7 issue a certificate to the taxpayer certifying:

8 (1) The amount of the qualified costs; and

9 (2) The amount of tax credit that the taxpayer is allowed
10 to use for the taxable year.

11 The department of business, economic development, and
12 tourism shall certify no more than \$7,500,000 in credits in the
13 aggregate for all taxpayers for each taxable year; provided that
14 the department may verify qualified costs of no more than
15 \$75,000,000 from July 1, 2007, through June 30, 2013. The
16 taxpayer shall file the certificate with the taxpayer's return
17 with the department of taxation.

18 (j) As used in this section:

19 "Kakaako makai" means that portion of the Kakaako peninsula
20 south of Ala Moana boulevard under the jurisdiction of the
21 Hawaii community development authority under chapter 206E.



1 "Qualified costs" means any costs for plans, design, and
 2 construction and costs for equipment that is permanently affixed
 3 to a building or structure, up to a total of \$75,000,000 in the
 4 aggregate, incurred from July 1, 2007 through June 30, 2013, at
 5 Kakaako makai on Oahu for the development of a world-class
 6 aquarium; provided that "qualified costs" shall not include land
 7 acquisition costs.

8 "Qualified taxpayer" means a person who fulfills the
 9 requirements of subsection (c).

10 (k) The director of taxation:

11 (1) Shall prepare any forms that may be necessary to claim
 12 a credit under this section;

13 (2) May require the taxpayer to furnish information to
 14 ascertain the validity of the claims for credits made
 15 under this section; and

16 (3) May adopt rules necessary to effectuate the purposes
 17 of this section pursuant to chapter 91."

18 SECTION 2. New statutory material is underscored.

19 SECTION 3. This Act shall take effect on July 1, 2007.

20

INTRODUCED BY:

Calvin K. N. Day

JAN 23 2007



Report Title:

Kakaako Makai; Aquarium

Description:

Provides a tax credit to support the development of a world class aquarium at Kakaako makai on Oahu.

