

---

---

## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The major earthquakes that struck Hawaii on the  
2 morning of October 15, 2006, caused significant damage to  
3 property across the state, particularly on the island of Hawaii.  
4 As of November 2006, estimates of the damage were approximately  
5 \$200,000,000. The legislature finds that tax credits would  
6 assist property owners in recovering from their losses.

7           SECTION 2. (a) There shall be allowed to each taxpayer  
8 who is not claimed or is not otherwise eligible to be claimed as  
9 a dependent by another taxpayer for federal or Hawaii state  
10 individual income tax purposes, who files a net income tax  
11 return for a taxable year, a one-time nonrefundable earthquake  
12 victim tax credit, except as otherwise provided in this Act.  
13 The tax credit shall be deductible from the taxpayer's net  
14 income tax liability imposed by chapter 235, Hawaii Revised  
15 Statutes.

16           (b) The amount of the tax credit shall be:

17                   (1) Fifty per cent of the total amount expended by  
18                   the taxpayer for costs directly related to the



1 damage directly caused by the earthquakes to the  
2 taxpayer's real or personal property, up to a  
3 maximum of \$10,000; and

4 (2) For costs in excess of the amount described  
5 in paragraph (1), ten percent of the total amount  
6 expended by the taxpayer for costs directly  
7 related to the damage directly caused by the  
8 earthquakes to the taxpayer's real or personal  
9 property, up to a maximum of \$10,000;

10 provided that:

11 (A) The costs are not reimbursable by insurance  
12 proceeds or disaster relief payments from  
13 government agencies or non-profit  
14 organizations; and

15 (B) No refund as provided in subsection (f) or  
16 payment on account of the tax credit allowed  
17 by this Act shall be made for amounts less  
18 than \$1.

19 (c) The tax credit shall apply to a taxpayer who suffered  
20 damage to the taxpayer's real or personal property that is  
21 situated in the state, having occurred on October 15, 2006.



1           (d) To qualify for the income tax credit, the taxpayer  
2 shall certify to the department of taxation that the taxpayer is  
3 in compliance with all applicable federal, state, and county  
4 statutes, rules, and regulations.

5           (e) To qualify for the income tax credit, the taxpayer  
6 shall sign a statement and provide information determined by the  
7 department of taxation as necessary to claim the credit under  
8 penalties of perjury.

9           (f) If the tax credit under this section exceeds the  
10 taxpayer's net income tax liability, any excess of the tax  
11 credit may be used as a credit against the taxpayer's income tax  
12 liability for the taxable year the credit is claimed; provided  
13 that tax credits properly claimed by a taxpayer shall be  
14 refunded to the taxpayer after being credited against the  
15 taxpayer's income tax liability for the taxable year, if the  
16 taxpayer qualifies under one of the following tests:

- 17           (1) All of the taxpayer's income is exempt from taxation  
18               under section 235-7(a)(2) or section 235-7(a)(3),  
19               Hawaii Revised Statutes; or
- 20           (2) The taxpayer's adjusted gross income is \$20,000 or  
21               less.



1 (g) In the case of a partnership, S corporation, estate,  
2 trust, or association of apartment owners, the tax credit  
3 allowable is for expenses incurred and paid for by the entity  
4 for the taxable year. The cost upon which the tax credit is  
5 computed shall be determined at the entity level.

6 (h) If a deduction is taken under section 179 (with  
7 respect to election to expense certain depreciable business  
8 assets) of the Internal Revenue Code of 1986, as amended, no tax  
9 credit shall be allowed for that portion of the expenses for  
10 which the deduction is taken.

11 The basis of property shall not be increased by any amount  
12 for which the credit is allowable and claimed. In the  
13 alternative, the taxpayer shall treat the amount of the credit  
14 allowable and claimed as a taxable income item for the taxable  
15 year in which it is properly recognized under the method of  
16 accounting used to compute taxable income.

17 (i) No taxpayer who claims the tax credit under this  
18 section shall claim any other credit or deduction for the same  
19 losses or other expenses or costs.

20 (j) Every claim, including amended claims, for the tax  
21 credit under this section shall be filed on or before  
22 December 31, 2007. Failure to meet the filing requirements of



1 this subsection shall constitute a waiver of the right to claim  
2 the tax credit.

3 (k) If at any time after claiming the tax credit, the  
4 taxpayer no longer qualifies for the credit because of  
5 subsequent recovery for expenses used to calculate the credit,  
6 the credits claimed shall be recaptured. The recapture shall be  
7 equal to one hundred per cent of the tax credits that were  
8 subsequently ineligible as a result of later recovery. The  
9 amount of the recaptured tax credits shall be added to the  
10 taxpayer's tax liability for the taxable year in which the  
11 recapture occurs.

12 (l) In the case of fraud, making of a false statement, or  
13 willful disregard for the facts, associated with making a return  
14 or otherwise claiming the tax credit, there shall be added to  
15 the amount wrongfully claimed on a return a penalty of fifty per  
16 cent of the amount of such credit claimed.

17 (m) The director of taxation shall prepare any forms as  
18 may be necessary to claim a tax credit under this section, may  
19 require proof of the claim for the tax credit, and may adopt  
20 rules without regard to chapter 91, Hawaii Revised Statutes, to  
21 effectuate the purposes of this section.



1 SECTION 3. This Act, upon its approval, shall apply to  
 2 taxable years beginning after December 31, 2005, and ending  
 3 before January 1, 2007.  
 4

INTRODUCED BY:

Ray Stewart  
~~Ray Stewart~~  
Cindy Bruns

Josh Green MD  
John L.  
Mark L.  
Gary Murray  
024.2-  
~~John L.~~  
~~John L.~~  
John M. Thayer  
Michael J. Mayberry  
~~Michael J. Mayberry~~  
Della A. Blatti  
John L.  
John L.



**Report Title:**

Tax credit; Damage from the earthquakes on October 15, 2006.

**Description:**

Provides a tax credit for damage caused by the earthquakes of October 15, 2006.

