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# A BILL FOR AN ACT

RELATING TO STATE MORTGAGE CREDIT CERTIFICATES.

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

1           SECTION 1. The purpose of this Act is to assist low- and  
2 moderate-income taxpayers with purchasing a principal residence  
3 in sustainable affordable housing developments by providing  
4 qualified buyers with an income tax credit in an amount up to  
5 twenty per cent of the buyer's annual mortgage interest payment.  
6 The requirements for claiming this tax credit are based in part  
7 on a similar federal tax credit under the Internal Revenue Code.

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

11                   **"PART           .   STATE MORTGAGE CREDIT CERTIFICATES**

12           **§235-A Definitions.** As used in this part:

13           "Certificate credit rate" means the rate of the credit  
14 allowable by this part that is specified in the state mortgage  
15 credit certificate.

16           "Certified indebtedness amount" means the amount of  
17 indebtedness that is incurred by a taxpayer to acquire the



1 principal residence of the taxpayer and specified in the state  
2 mortgage credit certificate.

3 "First-time homebuyer" means a person who has not owned a  
4 principal residence in the State for at least three years prior  
5 to the purchase of the home for which the person is claiming a  
6 credit under this part.

7 "Principal residence" has the same meaning as used in  
8 Section 121 of the Internal Revenue Code of 1986, as amended.

9 "State mortgage credit certificate" means the certificate  
10 that is issued to a taxpayer in connection with the acquisition  
11 of the taxpayer's principal residence that specifies the  
12 certificate credit rate and the certified indebtedness amount  
13 and is in a form that the director of taxation may prescribe.

14 **§235-B Allowance of credit.** (a) There shall be allowed  
15 to each taxpayer subject to the taxes imposed under this  
16 chapter, a tax credit that shall be applied to the taxpayer's  
17 net income tax liability, if any, imposed by this chapter for  
18 the taxable year in which the credit is properly claimed. The  
19 tax credit shall be equal to the product of:

20 (1) The certificate credit rate; and



1           (2) The interest paid or accrued by the taxpayer during  
2           the taxable year on the remaining principal of the  
3           certified indebtedness amount.

4           If the certificate credit rate exceeds twenty per cent, the  
5           amount of the tax credit allowed to the taxpayer under this  
6           section for any taxable year shall not exceed \$2,000; provided  
7           that if two or more persons hold interests in any residence, the  
8           tax credit shall be allocated among the persons in proportion to  
9           their respective interests in the residence.

10          (b) A taxpayer claiming a credit under this part shall  
11          meet the following requirements:

12          (1) The taxpayer shall be a first-time homebuyer. If more  
13          than one person is purchasing a residence, all persons  
14          shall be first-time homebuyers;

15          (2) The residence financed by the indebtedness shall be a  
16          residence in the State that can reasonably be expected  
17          to become the principal residence of the mortgagor  
18          within a reasonable time after financing is provided;

19          (3) The residence financed by the indebtedness shall be  
20          part of a sustainable affordable development, as  
21          defined in section 516-1; and



1           (4) The taxpayer's household income shall not exceed one  
2           hundred forty per cent of the area median income, as  
3           determined by the United States Department of Housing  
4           and Urban Development.

5           (c) Except to the extent provided in rules, the issuance  
6           of state mortgage credit certificates shall not be limited to  
7           indebtedness incurred from particular lenders and a state  
8           mortgage credit certificate shall not be transferable.

9           **§235-C Determination of certificate credit rate.** For the  
10          purposes of this part, the certificate credit rate specified in  
11          a state mortgage credit certificate shall not be less than ten  
12          per cent and not more than fifty per cent.

13          **§235-D Aggregate limit on certificate credit rates.** The  
14          sum of the products determined by multiplying the certified  
15          indebtedness amount of each state mortgage credit certificate  
16          issued under the program, by the certificate credit rate with  
17          respect to the certificate, shall not exceed the amount  
18          authorized by the legislature for that year as indicated by a  
19          concurrent resolution adopted for that purpose.

20          **§235-E Carryover of unused credit.** (a) If the tax credit  
21          allowed under this part for any taxable year exceeds a  
22          taxpayer's tax liability for that taxable year, the excess may



1 be carried over for three successive taxable years and, subject  
2 to the limitations of section 235-B, shall be added to the  
3 credit allowable by this part for the succeeding taxable year.

4 (b) The amount of the unused credit that may be taken into  
5 account under this section for any taxable year shall not exceed  
6 the amount, if any, by which the applicable tax limit for the  
7 taxable year exceeds the sum of:

8 (1) The credit allowable under this part for the taxable  
9 year determined without regard to this section; and

10 (2) The amounts that, by reason of this section, are  
11 carried to the taxable year and are attributable to  
12 taxable years before the unused credit year.

13 **§235-F Period for which certificate in effect. (a)**

14 Except as otherwise provided in this part, a state mortgage  
15 credit certificate shall be treated as in effect with respect to  
16 interest attributable to the period:

17 (1) Beginning on the date the certificate is issued; and

18 (2) Ending on the earlier of:

19 (A) The date that is specified in the certificate; or

20 (B) The date on which the residence to which the  
21 certificate relates ceases to be the principal



1                    residence of the individual to whom the  
2                    certificate relates.

3            (b) A certificate shall not apply to any indebtedness that  
4 is incurred after the close of the second calendar year  
5 following the calendar year in which the certificate is issued.

6            **§235-G Interest paid or accrued to related persons.** No  
7 tax credit shall be allowed under this part for any interest  
8 paid or accrued to a person who is related to the taxpayer,  
9 within the meaning of section 144(a)(3)(A) of the Internal  
10 Revenue Code of 1986, as amended.

11           **§235-H Reporting requirements.** (a) Each person who makes  
12 a loan that is a certified indebtedness amount under any state  
13 mortgage credit certificate shall file a report with the  
14 director of taxation containing:

- 15            (1) The name, address, and social security account number  
16                    of the person issued a certificate;
- 17            (2) The certificate's issuer, date of issue, certified  
18                    indebtedness amount, and certificate credit rate; and
- 19            (3) Any other information as the director of taxation may  
20                    require by rule adopted pursuant to chapter 91.

21            (b) Each person who issues a state mortgage credit  
22 certificate shall file a report showing information as the



1 director shall prescribe by rule adopted pursuant to chapter 91.  
2 The report shall be filed at a time and in a manner as the  
3 director of taxation may require according to rules adopted  
4 pursuant to chapter 91.

5 **§235-I Rules.** The director shall adopt rules pursuant to  
6 chapter 91 as may be necessary to carry out the purposes of this  
7 part, including rules that may require recipients of state  
8 mortgage credit certificates to pay a reasonable processing fee  
9 to defray the expenses incurred in administering the program."

10 SECTION 3. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$ , or so much  
12 thereof as may be necessary for fiscal year 2007-2008, for the  
13 purposes of this Act.

14 The sum appropriated shall be expended by the department of  
15 taxation for the purposes of this Act.

16 SECTION 4. In codifying the new sections added by section  
17 2 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.

20 SECTION 5. This Act shall take effect upon its approval  
21 and shall apply to taxable years beginning after December 31,



# S.B. NO. 1700

1 2006; provided that sections 3 and 4 shall take effect on  
2 July 1, 2007.

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INTRODUCED BY:

R. D. Gil  
by request





**Report Title:**

State Mortgage Credit Certificates

**Description:**

Assists low- and moderate-income home buyers by providing a state income tax credit up to 20% of the annual mortgage interest paid per year.

