# H.B. NO. 2559

# A BILL FOR AN ACT

RELATING TO REMODELING TAX CREDITS.

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

SECTION 1. As a result of the current economic downturn, a number of major hotel and resort projects have been delayed or canceled in the past two years. In a study released on January 4, 2010, the General Contractors Association reported that between November 2008 and November 2009, Hawaii's construction industry lost 5,800 jobs, or fifteen percent of construction jobs statewide. Compared to the State's seven percent overall unemployment rate during the same period, construction job loss is double that of overall job loss.

According to recent economic forecasts by the First Hawaiian Bank and the University of Hawaii Economic Research Organization, the construction industry will continue to be impacted for some time before a gradual recovery ensues. Since the construction industry has been one of the hardest hit industries during this economic downturn, and since larger scale hotel and resort projects have the potential to hire large numbers of construction workers, and since renovation of existing hotels and the build-out of new resorts will re-energize our visitor attractions, it is essential to incentivize key construction activities in our state.

The purpose of this Act is to create a construction and renovation tax credit for hotel and resort properties to stimulate the construction industry and create jobs in Hawaii.

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

"**§235- Hotel and resort property construction and renovation tax credit.** (a) There shall be allowed to each taxpayer, subject to the taxes imposed by this chapter, chapter 237, and chapter 237D, a tax credit which shall be deductible from the taxpayer's net income, general excise, and transient accommodations tax liability, if any, imposed for the taxable year in which the credit is properly claimed.

The amount of the credit claimed under this section shall be ten percent of the construction and/or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii; provided that the amount of credit claimed shall not include the construction and/or renovation costs for which another credit was claimed for the taxable year, provided that the construction or renovation costs are incurred before December 31, 2012; and provided further that the construction and/or renovation costs shall:

(1) Be a minimum of $10,000,000 in the aggregate for a qualified hotel facility; and

(2) A maximum of $100,000,000 in the aggregate for a qualified hotel facility.

In the case of a partnership, S corporation, estate, trust, or association of a qualified hotel facility, timeshare owners association, or any developer of a timeshare project, the tax credit allowable is for construction and/or renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level.

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction and/or renovation costs for which the deduction is taken.

The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed. In the alternative, the taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

(b) The credit allowed under this section shall be claimed against the net tax liability for the taxable year, including income taxes, general excise taxes, and transient accommodation taxes.

(c) If the tax credit under this section exceeds the taxpayer's tax liability, the excess of credit over liability may be used as a credit against the taxpayer's tax liability in subsequent years until exhausted. All claims for a 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 the foregoing provision shall constitute a waiver of the right to claim the credit.

(d) 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.

(e) The tax credit allowed under this section shall be available for taxable years beginning after December 31, 2009 and shall not be available for taxable years beginning after December 31, 2012.

(f) Renovation or construction costs financed, in whole or in part, with funds that represent government grants, government-issued loans, or property assessed clean energy financing, shall not be eligible for the tax credit under this section.

(g) There shall be a total annual cap on tax credits granted under this section of $50,000,000.

(h) As used in this section:

"Construction and/or renovation cost" means any costs incurred in Hawaii after December 31, 2009 and before January 1, 2013 for construction, remodeling, or modification to a qualified hotel facility, including the costs of labor, material, and supplies; except that costs for plans, designs, and permitting are not included.

"Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

"Qualified hotel facility" means:

(1) a hotel or hotel-condo as defined in section 486K-1;

(2) a timeshare facility or project;

(3) commercial buildings and facilities located within a qualified resort area.

"Qualified resort area" means an area designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use.

(i) No taxpayer that claims a credit under this section shall claim a credit under chapter 235D."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval and apply to taxable years beginning after December 31, 2009; provided that this Act shall be repealed on January 1, 2013.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 25 2010

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**Report Title:**
Remodeling Tax Credits

**Description:**
Provides a ten percent tax credit on costs incurred for the construction or renovation of a hotel or resort property through December 31, 2012.

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JUSTIFICATION SHEET

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| DEPARTMENT: | Office of the Governor |
| TITLE: | A BILL FOR AN ACT RELATING TO REMODELING TAX CREDITS. |
| PURPOSE: | To provide a ten percent tax credit on costs incurred for the construction or renovation of hotels or resort properties from January 1, 2010 to December 31, 2012. |
| MEANS: | Adds a new section to chapter 235, Hawaii Revised Statutes. |
| JUSTIFICATION: | As a result of the current economic downturn, a number of Hawaii real estate projects have been delayed or canceled in the past two years. In a study released on January 4, 2010, the General Contractors Association reported that between November 2008 and November 2009, Hawaii's construction industry lost 5,800 jobs, or fifteen percent of construction jobs statewide. Compared to the State's seven percent overall unemployment rate during the same period, construction job loss is double that of overall job loss. |

Moreover, recent economic forecasts by the First Hawaiian Bank and the University of Hawaii Economic Research Organization project that the construction industry will continue to be impacted for some time before a gradual recovery ensues. Since the construction and visitor industries have been among the hardest hit during this economic downturn, and since larger scale hotel and resort projects have the potential to hire large numbers of construction workers, and since renovation of existing hotels and the build-out of new resorts will re-energize our visitor accommodations, it is essential to incentivize key construction activities in the State.

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This bill stimulates construction activity by establishing a ten percent tax credit, applicable to costs incurred in the construction or renovation of hotel or resort properties for tax years 2010 to 2012. The non-refundable credit may be used to offset corporate income, general excise or transient accommodation taxes. The purpose of the hotel and resort construction and renovation tax credit is to provide an immediate boost to the construction industry, while jump starting Hawaii's overall economy.

This tax credit sets a floor of $10,000,000 and a cap of $100,000,000 in the aggregate per project. Construction or renovation costs include labor, material, and supply costs incurred in Hawaii, but do not include design, planning, or permitting costs. This provision is necessary to ensure the credit is only applicable to actual construction and renovation.

Additionally, the bill places an annual limit on the amount of tax credits the Department of Taxation may award to $50,000,000 per year.

Impact on the public:
This bill helps revitalize the construction industry in the key sector of hotel and resort development and provides long term enhancements to visitor accommodations in the State.

Impact on the department and other agencies:
The Department of Taxation must administer the tax credit. The Department of Business, Economic Development, and Tourism will work with the Department of Taxation to oversee the program.

GENERAL FUND: $50,000,000 per year to generate $500,000,000 per year in construction activity resulting in up to $74 million in net addition tax income to the State.

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| OTHER FUNDS: | None. |
| PPBS PROGRAM DESIGNATION: | TAX-100. |
| OTHER AFFECTED AGENCIES: | Department of Taxation and Department of Business, Economic Development, and Tourism. |
| EFFECTIVE DATE: | Upon approval and applies to taxable years beginning after December 31, 2009 and ending December 31, 2012. |