THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

S.B. NO. 654 S.D. 1 H.D. 1

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a task force to determine the economic contributions of the construction industry in Hawaii and to develop a series of proposals for state actions to preserve and create new jobs in the local construction industry. This Act implements one of the task force's proposals in conjunction with the Abercrombie administration's support for state actions to create new jobs in Hawaii's construction industry.

In addition, in 2010, the senate committee on economic development and technology and the house committee on economic revitalization, business, and military affairs convened an informal small business discussion group to address the most critical issues facing the small business sectors within Hawaii's economy. Representatives from the Chamber of Commerce of Hawaii, construction and trades industries, community nonprofits, the agricultural sector, food and restaurant industries, retailing, the science and technology sector, the commercial transportation industry, and interested stakeholders developed a package of bills that addresses the most pressing problems facing Hawaii's small business community.

The purpose of this Act is to:

(1) Support the findings of the small business working group and the recommendations proposed by the construction industry task force to establish a non-refundable state income tax credit that mirrors the federal income tax credit but limits the tax credit to qualified taxpayers that purchase a qualified principal residence on or after April 1, 2011, and before January 1, 2013; and

(2) Establish a temporary tax credit for residential construction and remodeling projects.

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

"<u>**§235-   Ohana residential housing income tax credit.**</u> <u>(a) There shall be allowed to each qualified taxpayer subject to the tax imposed by this chapter an ohana residential housing income tax credit, which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.</u>

(b) For purposes of this section:

"Construction or remodeling cost" means any costs incurred after December 31, 2010, for the plans, design, construction, or equipment that is permanently affixed to a building or structure related to new construction, alterations, or modifications of a residential apartment unit or house, and performed by a licensed contractor, and shall not include any costs for which another credit is claimed under this chapter.

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

"Purchase price" means all direct and indirect costs associated with the purchase of a qualified principal residence, including land acquisition costs and excluding escrow closing costs.

"Qualified principal residence" means a dwelling or residential unit that:

(1) Is located in the State;

(2) Did not previously exist and has been constructed from the ground up;

(3) Receives a certificate of completion on or after April 1, 2011;

(4) Is occupied by the owner as the owner's primary residence for no less than two hundred seventy days per calendar year in each of two consecutive calendar years immediately following close of escrow; and

(5) Is eligible for a county homeowner's exemption.

A "qualified principal residence" includes a single family home, duplex, condominium, manufactured home, or townhouse.

"Qualified taxpayer" means an individual that:

(1) Signs a binding contract to purchase a qualified principal residence with a purchase price of $625,000 or less on or after April 1, 2011, and before January 1, 2013; provided that the individual closes escrow on the purchase of the individual's newly constructed principal residence on or after April 1, 2011, and before March 1, 2013; or

(2) Owns residential real property and incurs construction or remodeling costs during the taxable year for which the credit is claimed; provided that the taxpayer is in compliance with all applicable federal, state, and county statutes rules and regulations and occupies the residential real property as a primary residence; provided further that the costs shall not exceed

$250,000 in the aggregate for each residential unit and that the costs are incurred before July 1, .

(c) The amount of the tax credit shall be equal to:

(1) Two per cent of the purchase price of the qualified principal residence; provided that the tax credit shall be payable in two equal installments over two consecutive taxable years beginning with the taxable year in which the binding contract to purchase the qualified principal residence is signed; provided further that if more than one qualified taxpayer is claiming the tax credit under this section, then the applicable tax credit shall be divided equally between each qualified taxpayer. For purposes of this subsection, a married couple is considered to be one qualified taxpayer; or

(2) Two per cent of the residential construction or remodeling costs during the taxable year for which the credit is claimed; provided that a husband and wife filing separately, or multiple owners of a property filing separately may apportion the tax credit between themselves; provided further that the total amount of the claim shall not exceed the amount that would have

been claimed if filed jointly; provided further that the tax credit may be claimed only once for a single residential property; and provided further that if a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction or remodeling cost for which the deduction is taken.

(d) If the tax credit under subsection (c) exceeds the taxpayer's income tax liability, the excess of credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims, including amended claims, for a tax credit under subsection (c) 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 under subsection (c).

(e) Each qualified taxpayer that is taking title to the qualified principal residence shall meet the following adjusted gross income limitations for any of the taxpayers that are taking title to the qualified principal residence to be eligible to claim the tax credit under this section:

(1) An individual with an adjusted gross income of $75,000 or less;

(2) A married couple with a combined adjusted gross income of $150,000 or less; or

(3) A grantor of any trust with an adjusted gross income of $75,000 or less.

(f) One hundred per cent of the total tax credit claimed under subsection (c) for construction or remodeling shall be recaptured if, within the two-year period from completion of the construction or remodeling for which the credit under subsection (c) has been claimed, the taxpayer sells the residential real property upon which the construction or remodeling was performed. The amount of the recaptured tax credit determined under this subsection shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs under this subsection.

(g) If a qualified taxpayer sells or no longer resides in the qualified principal residence within seven hundred thirty days after closing escrow on the qualified principal residence, then the taxpayer shall be subject to recapture of the previously claimed credit under this section on a pro rata basis.

(h) 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 the tax credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that Section 2 of this Act shall take effect on July 1, 2050, and shall apply to taxable years beginning after December 31, 2010, and ending prior to January 1, 2015.

Report Title:
Construction Task Force (2010); Tax Credit; Ohana Residential Housing; Residential Construction and Remodeling; New Construction

Description:
Establishes a non-refundable ohana residential housing income tax credit that includes a residential construction and remodeling tax credit, as well as a new home purchase tax credit. (SB654 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.