

JAN 27 2016

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# A BILL FOR AN ACT

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RELATING TO LOW-INCOME HOUSING TAX CREDIT.

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

1       SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "§235-110.8 Low-income housing tax credit. (a) Section  
4 42 (with respect to low-income housing credit) of the Internal  
5 Revenue Code shall be operative for the purposes of this chapter  
6 as provided in this section. A taxpayer owning a qualified low-  
7 income building who has been awarded a subaward under section  
8 1602 of the American Recovery and Reinvestment Act of 2009,  
9 Public Law 111-5, shall also be eligible for the credit provided  
10 in this section.

11       (b) Each taxpayer subject to the tax imposed by this  
12 chapter, who has filed a net income tax return for a taxable  
13 year may claim a low-income housing tax credit against the  
14 taxpayer's net income tax liability. The amount of the credit  
15 shall be deductible from the taxpayer's net income tax  
16 liability, if any, imposed by this chapter for the taxable year  
17 in which the credit is properly claimed on a timely basis. A



1 credit under this section may be claimed whether or not the  
2 taxpayer claims a federal low-income housing tax credit pursuant  
3 to section 42 of the Internal Revenue Code.

4 (c) The amount of the low-income housing tax credit that  
5 may be claimed by a taxpayer as provided in subsection (b) shall  
6 be fifty per cent of the applicable percentage of the qualified  
7 basis of each building located in Hawaii. The applicable  
8 percentage shall be calculated as provided in section 42(b) of  
9 the Internal Revenue Code[-] provided that:

10 (1) For credits allocated after June 30, 2016, for new  
11 buildings that are not federally subsidized for the  
12 taxable year, the taxpayer may claim the applicable  
13 percentage up to a maximum of nine per cent of the  
14 qualified basis of each building located in Hawaii in  
15 each of the first three years of the credit period.  
16 The credit claimed in the fourth year shall be the  
17 qualified basis of each building located in Hawaii  
18 multiplied by the difference of thirty-five per cent  
19 minus the sum of the applicable percentages taken in  
20 each of the first three years;



1       (2) For credits allocated after June 30, 2016, for new  
2       buildings that are federally subsidized, the taxpayer  
3       may claim the applicable percentage up to a maximum of  
4       four per cent of the qualified basis of each building  
5       located in Hawaii in each of the first three years of  
6       the credit period. The credit claimed in the fourth  
7       year shall be the qualified basis of each building  
8       located in Hawaii multiplied by the difference of  
9       fifteen per cent minus the sum of the applicable  
10      percentages taken in each of the first three years.

11       (d) If a subaward under section 1602 of the American  
12      Recovery and Reinvestment Act of 2009, Public Law 111-5, has  
13      been issued for a qualified low-income building, the amount of  
14      the low-income housing tax credits that may be claimed by a  
15      taxpayer as provided in subsection (b) shall be equal to fifty  
16      per cent of the amount of the federal low-income housing tax  
17      credits that would have been allocated to the qualified low-  
18      income building pursuant to section 42(b) of the Internal  
19      Revenue Code by the corporation had a subaward not been awarded  
20      with respect to the qualified low-income building.



(e) For the purposes of this section, the determination of:

(1) Qualified basis and qualified low-income building shall be made under section 42(c);

(2) Eligible basis shall be made under section 42(d);

(3) Qualified low-income housing project shall be made under section 42(g);

(4) Recapture of credit shall be made under section 42(j), except that the tax for the taxable year shall be increased under section 42(j)(1) only with respect to credits that were used to reduce state income taxes; and

(5) Application of at-risk rules shall be made under section 42(k);

of the Internal Revenue Code.

(f) As provided in section 42(e) [7] of the Internal Revenue Code, rehabilitation expenditures shall be treated as a separate new building and their treatment under this section shall be the same as in section 42(e) [-] of the Internal Revenue Code. ~~[The definitions and special rules relating to credit period in section 42(f) and the]~~ The definitions and special



1 rules in section 42(i) of the Internal Revenue Code shall be  
2 operative for the purposes of this section.

3 (g) The definitions and special rules relating to credit  
4 period in section 42(f) of the Internal Revenue Code shall be  
5 operative for the purposes of this section; provided that for  
6 credits allocated after June 30, 2016, the credit period in  
7 section 42(f) of the Internal Revenue Code shall be four taxable  
8 years.

9 ~~[(g)]~~ (h) The state housing credit ceiling under section  
10 42(h) of the Internal Revenue Code shall be zero for the  
11 calendar year immediately following the expiration of the  
12 federal low-income housing tax credit program and for any  
13 calendar year thereafter, except for the carryover of any credit  
14 ceiling amount for certain projects in progress which, at the  
15 time of the federal expiration, meet the requirements of section  
16 42~~[-]~~ of the Internal Revenue Code.

17 ~~[(h)]~~ (i) The credit allowed under this section shall be  
18 claimed against net income tax liability for the taxable year.  
19 For the purpose of deducting this tax credit, net income tax  
20 liability means net income tax liability reduced by all other  
21 credits allowed the taxpayer under this chapter.



1        A tax credit under this section that exceeds the taxpayer's  
2 income tax liability may be used as a credit against the  
3 taxpayer's income tax liability in subsequent years until  
4 exhausted. All claims for a tax credit under this section shall  
5 be filed on or before the end of the twelfth month following the  
6 close of the taxable year for which the credit may be claimed.  
7 Failure to properly and timely claim the credit shall constitute  
8 a waiver of the right to claim the credit. A taxpayer may claim  
9 a credit under this section only if the building or project is a  
10 qualified low-income housing building or a qualified low-income  
11 housing project under section 42 of the Internal Revenue Code.

12        Section 469 (with respect to passive activity losses and  
13 credits limited) of the Internal Revenue Code shall be applied  
14 in claiming the credit under this section.

15        [~~(i)~~] (j) In lieu of the credit awarded under this section  
16 for a qualified low-income building that has been awarded  
17 federal credits that are subject to the state housing credit  
18 ceiling under section 42(h)(3)(C) of the Internal Revenue Code,  
19 federal credits that are allocated pursuant to section 42(h)(4)  
20 of the Internal Revenue Code, or a subaward under section 1602  
21 of the American Recovery and Reinvestment Act of 2009, Public



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1 Law 111-5, the taxpayer owning the qualified low-income building  
2 may make a request to the corporation for a loan under section  
3 201H-86. If the taxpayer elects to receive the loan pursuant to  
4 section 201H-86, the taxpayer shall not be eligible for the  
5 credit under this section.

6 ~~[(j)]~~ (k) The director of taxation may adopt any rules  
7 under chapter 91 and forms necessary to carry out this section."

8 SECTION 2. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act, upon its approval, shall apply to  
11 taxable years beginning after December 31, 2016.

12 INTRODUCED BY: Breen Hunt

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# S.B. NO. 3078

**Report Title:**

Low-income Housing Tax Credit

**Description:**

Permits developers of low-income housing to apply Hawaii low-income housing tax credits in four years instead of ten years.

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

