



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 5, 2019

GOV. MSG. NO. 1362

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2019, the following bill was signed into law:

SB972 SD1 HD1 CD1

RELATING TO SHIP REPAIR INDUSTRY.
ACT 260 (19)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO SHIP REPAIR INDUSTRY.

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

1 SECTION 1. Pearl Harbor Naval Shipyard, one of four naval
2 shipyards in the United States, comprises six per cent of
3 Hawaii's gross domestic product. While the submarine footprint
4 in Pearl Harbor will continue to grow slightly by 2025, the
5 surface combatant fleet currently homeported in Pearl Harbor may
6 be significantly reduced.

7 Based on the current Navy Workload Schedules, there are
8 plans to relocate surface ships to San Diego for deep
9 maintenance, with some of these ships at risk of not returning.
10 These types of surface vessel repairs are typically outsourced
11 to private-sector ship repair companies and constituted a major
12 part of the estimated \$180,000,000 to \$200,000,000 in civilian
13 ship repair activities in Hawaii during 2018.

14 The legislature finds that the impact of losing surface
15 vessel repair work would be far-reaching and would directly
16 cause the loss of military jobs associated with surface ships.
17 The Navy's drydock capacity shortfalls will refocus nearly one
18 hundred per cent of the current Pearl Harbor drydock capacity on



1 submarine maintenance and displace nearly all surface ship
2 drydock maintenance and modernization to the west coast. The
3 adverse economic impacts of displaced ship repair activities
4 over the next seven years include the loss of nearly
5 \$1,310,000,000 in Hawaii gross domestic product, \$351,000,000 in
6 lost labor earnings, and an annual average decrease of nine
7 hundred jobs each year. The loss of Navy surface ship drydock
8 maintenance to the Pearl Harbor private-sector ship repair
9 community would significantly diminish the local ship repair
10 industry to an unrecoverable degree.

11 The legislature further finds that the construction of a
12 purpose-built floating drydock capable of accommodating any of
13 the submarines and surface ships currently in and planned for at
14 Pearl Harbor represents the best mitigating solution for the
15 State. This floating drydock will protect private-sector
16 maritime jobs that are expected to be lost and will stimulate
17 overall job growth in the ship repair industry, prevent the
18 erosion of Hawaii's private ship repair capability, and provide
19 greater strength and stability to the Navy's Mid-Pacific Surface
20 Force. The legislature believes that a ship repair industry tax
21 credit will ultimately result in a fifth drydock. Given that a



1 drydock's life cycle is fifty years or more, additional Pearl
2 Harbor drydocking capacity will benefit the State's economy well
3 into the future.

4 The purpose of this Act is to establish the ship repair
5 industry tax credit to incentivize construction of a new drydock
6 at Pearl Harbor for use by the United States Navy.

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

10 "§235- Ship repair industry tax credit. (a) There
11 shall be allowed to each taxpayer subject to the taxes imposed
12 by this chapter a ship repair industry tax credit that shall be
13 deductible from the taxpayer's net income tax liability, if any,
14 imposed by this chapter.

15 (b) The amount of the tax credit shall be equal to thirty
16 per cent of the ship repair industry costs paid or incurred by
17 the qualified entity to design and construct the purpose-built
18 floating dry dock to be used by the United States Navy in Pearl
19 Harbor; provided that:



- 1 (1) A qualified entity may form a special purpose entity
2 for the purposes of raising investor capital and
3 claiming the credit on behalf of the qualified entity;
4 (2) The qualified entity, together with all of its special
5 purpose entities, including all partners and members
6 of the qualified entity and its special purpose
7 entities, shall not claim any credit in any one
8 taxable year that exceeds \$6,000,000; however, if the
9 total amount of credits applied for in any particular
10 year exceeds the aggregate amount of credits allowed
11 for such year under this section, the excess shall be
12 treated as having been applied for in the subsequent
13 year and shall be claimed in such year; provided that
14 no excess shall be allowed to be claimed after
15 December 31, 2026; and
16 (3) In no event shall a qualified entity or any of its
17 special purpose entities or any other taxpayer claim a
18 credit under this section prior to January 1, 2022, or
19 after December 31, 2026.
20 A qualified entity shall become eligible to claim a credit under
21 this section only after construction of the floating drydock has



1 been completed and the floating drydock has been placed into
2 service.

3 (c) In the case of an entity taxed as a partnership,
4 credit shall be determined at the entity level, but distribution
5 and share of the credit may be determined notwithstanding
6 sections 704 or 706 of the Internal Revenue Code.

7 (d) The credit allowed under this section shall be claimed
8 against the net income tax liability for the taxable year. If
9 the tax credit under this section exceeds the taxpayer's income
10 tax liability, the excess of the tax credit over liability may
11 be used as a credit against the taxpayer's net income tax
12 liability in subsequent years until exhausted. All claims,
13 including amended claims, for a tax credit under this section
14 shall be filed on or before the end of the twelfth month
15 following the close of the taxable year for which the credit may
16 be claimed. Failure to comply with the foregoing provision
17 shall constitute a waiver of the right to claim the credit.

18 (e) The director of taxation shall prepare any forms that
19 may be necessary to claim a credit under this section. The
20 director may also require the taxpayer to furnish information to
21 ascertain the validity of the claim for credit made under this



1 section. The director of taxation may adopt rules to effectuate
2 the purposes of this section pursuant to chapter 91.

3 (f) Any taxpayer claiming a tax credit under this section,
4 within ninety days of the end of the calendar year in which the
5 credit is properly claimable, shall submit the following
6 information to the department of taxation:

7 (1) The amount of the eligible costs for which the tax
8 credit may be claimed; and

9 (2) The qualified entity that incurred the costs.

10 Failure to timely submit the information shall be subject to a
11 penalty of \$5,000 per month or a fraction thereof, not to exceed
12 \$25,000.

13 (g) This section shall not apply to taxable years
14 beginning after December 31, 2026.

15 (h) For the purpose of this section:

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

18 "Qualified entity" means an entity with the principal
19 purpose of facilitating and enhancing the ship repair business
20 in the State and that is involved in the design and construction



1 of a purpose-built floating drydock to be used by the United
2 States Navy in Pearl Harbor.

3 "Ship repair industry costs" means capital expenditures, as
4 used in section 263 of the Internal Revenue Code and the
5 regulations promulgated thereunder, or capital expenditures for
6 real property, fixtures, structures, machinery, equipment, or
7 capital assets that are paid or incurred in connection with the
8 construction of a purpose-built floating drydock; provided that
9 the ship repair industry costs shall not include amounts for
10 which another credit is claimed or any amounts received in any
11 form from the State."

12 SECTION 3. Section 235-17.5, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§235-17.5 Capital infrastructure tax credit. (a) There~~
15 ~~shall be allowed to each taxpayer subject to the taxes imposed~~
16 ~~by this chapter a capital infrastructure tax credit that shall~~
17 ~~be deductible from the taxpayer's net income tax liability, if~~
18 ~~any, imposed by this chapter for the taxable year in which the~~
19 ~~capital infrastructure costs were paid or incurred.~~

20 ~~(b) For the purpose of this section:~~



1 ~~"Capital infrastructure costs" means capital expenditures,~~
2 ~~as used in section 263 of the Internal Revenue Code and the~~
3 ~~regulations promulgated thereunder, or capital expenditures for~~
4 ~~real property, fixtures, structures, machinery, equipment, or~~
5 ~~capital assets that are paid or incurred in connection with the~~
6 ~~displaced tenant's move of the tenant's current active trade or~~
7 ~~business to the tenant's new location within Honolulu harbor,~~
8 ~~provided that the capital infrastructure costs shall not include~~
9 ~~amounts for which another credit is claimed or any amounts~~
10 ~~received in any form from the State.~~

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

13 ~~"Qualified infrastructure tenant" means a business:~~

14 ~~(1) That currently owns capital or property or maintains~~
15 ~~an office, operations, or facilities at the former~~
16 ~~Kapalama military reservation site;~~

17 ~~(2) Whose principal business is maritime, and waterfront~~
18 ~~dependent, and is included under the State's plan to~~
19 ~~relocate the business to piers twenty four through~~
20 ~~twenty eight within Honolulu harbor; and~~



1 ~~(3) That will be displaced and relocated by the State~~
2 ~~pursuant to the Kapalama container terminal project.~~

3 ~~(c) The amount of the tax credit shall be equal to fifty~~
4 ~~per cent of the capital infrastructure costs paid or incurred by~~
5 ~~the qualified infrastructure tenant during the taxable year, up~~
6 ~~to a maximum credit of \$2,500,000 per qualified infrastructure~~
7 ~~tenant per taxable year. If the capital infrastructure costs~~
8 ~~paid or incurred by the qualified infrastructure tenant business~~
9 ~~result in a tax credit in excess of \$2,500,000 in any taxable~~
10 ~~year, the excess capital infrastructure costs may be carried~~
11 ~~over to a subsequent tax year or years, until exhausted, for~~
12 ~~generation of the credit; provided that:~~

13 ~~(1) A qualified infrastructure tenant may form a special~~
14 ~~purpose entity for the purposes of raising investor~~
15 ~~capital and claiming the credit on behalf of the~~
16 ~~qualified infrastructure tenant;~~

17 ~~(2) The qualified infrastructure tenant, together with all~~
18 ~~of its special purpose entities, including all~~
19 ~~partners and members of the qualified infrastructure~~
20 ~~tenant and its special purpose entities, shall not~~

1 ~~claim any credit in any one taxable year that exceeds~~
2 ~~\$2,500,000; and~~

3 ~~(3) In no event shall a qualified infrastructure tenant or~~
4 ~~any of its special purpose entities or any other~~
5 ~~taxpayer claim a credit under this section after~~
6 ~~December 31, 2019.~~

7 ~~(d) In the case of an entity taxed as a partnership,~~
8 ~~credit shall be determined at the entity level, but distribution~~
9 ~~and share of the credit may be determined notwithstanding~~
10 ~~section 704 or section 706 of the Internal Revenue Code.~~

11 ~~(e) The credit allowed under this section shall be claimed~~
12 ~~against the net income tax liability for the taxable year. If~~
13 ~~the tax credit under this section exceeds the taxpayer's income~~
14 ~~tax liability, the excess of the tax credit over liability may~~
15 ~~be used as a credit against the taxpayer's net income tax~~
16 ~~liability in subsequent years until exhausted. All claims,~~
17 ~~including amended claims, for a tax credit under this section~~
18 ~~shall be filed on or before the end of the twelfth month~~
19 ~~following the close of the taxable year for which the credit may~~
20 ~~be claimed. Failure to comply with the foregoing provision~~
21 ~~shall constitute a waiver of the right to claim the credit.~~



1 ~~(f) This section shall not apply to taxable years~~
2 ~~beginning after December 31, 2019.~~

3 ~~(g) Any credit claimed under this section shall be~~
4 ~~recaptured following the close of the taxable year for which the~~
5 ~~credit is claimed if:~~

6 ~~(1) Within three years:~~

7 ~~(A) The qualified infrastructure tenant fails to~~
8 ~~continue the line of business it conducted as of~~
9 ~~July 1, 2014; or~~

10 ~~(B) The interest in the qualified infrastructure~~
11 ~~tenant, whether in whole or in part, has been~~
12 ~~sold, exchanged, withdrawn, or otherwise disposed~~
13 ~~of by the taxpayer claiming a credit under this~~
14 ~~section; or~~

15 ~~(2) The qualified infrastructure tenant fails to relocate~~
16 ~~from the former Kapalama military reservation site to~~
17 ~~another location, pursuant to a lease with the~~
18 ~~department of transportation, within ninety days of~~
19 ~~the execution of the lease.~~

20 ~~The recapture shall be equal to one hundred per cent of the~~
21 ~~amount of the total tax credit claimed under this section in the~~



1 ~~preceding five taxable years, and shall be added to the~~
2 ~~taxpayer's tax liability for the taxable year in which the~~
3 ~~recapture occurs pursuant to this subsection.~~

4 ~~(h) The director of taxation shall prepare any forms that~~
5 ~~may be necessary to claim a credit under this section. The~~
6 ~~director may also require the taxpayer to furnish information to~~
7 ~~ascertain the validity of the claim for credit made under this~~
8 ~~section. The director of taxation may adopt rules to effectuate~~
9 ~~the purposes of this section pursuant to chapter 91.~~

10 ~~(i) Any taxpayer claiming a tax credit under this section~~
11 ~~shall, within ninety days of the end of the calendar year in~~
12 ~~which costs for which the credit is properly claimable, submit~~
13 ~~the following information to the department of taxation:~~

14 ~~(1) The amount of the eligible costs for that year for~~
15 ~~which the tax credit may be claimed; and~~

16 ~~(2) The qualified infrastructure tenant incurring the~~
17 ~~costs.~~

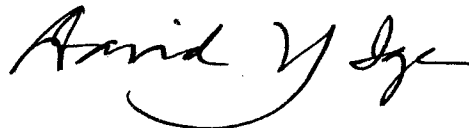
18 ~~Failure to timely submit the information shall be subject to a~~
19 ~~penalty of \$5,000 per month or a fraction thereof, not to exceed~~
20 ~~\$25,000."]~~



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on January 1, 2020,
4 and shall apply to taxable years beginning after December 31,
5 2021.

APPROVED this 05 day of JUL, 2019

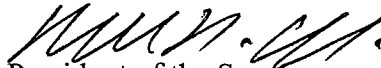



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: April 30, 2019
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019.


President of the Senate


Clerk of the Senate

SB No. 972, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2019
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives