

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2300, RELATING TO HISTORIC PRESERVATION.

BEFORE THE:

SENATE COMMITTEE ON WATER AND LAND

DATE: Wednesday, February 7, 2024 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 229 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Janine R. Udoi, Deputy Attorney General

Chair Inouye and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

This bill extends the sunset date of the historic preservation income tax credit from December 31, 2024, to December 31, 2030, and increases the aggregate amount of tax credits that may be claimed annually for qualified rehabilitation projects for taxable years 2025 through 2030.

Section 1 of the bill, page 1, line 3, provides that the historic preservation tax credit as authorized by section 235-110.97(i), Hawaii Revised Statutes (HRS), “sunset *in 2025.*” (Emphasis added). This is not technically correct—Act 267, Session Laws of Hawaii (SLH) 2019, provides that section 235-110.97(i), HRS, will be repealed on December 31, 2024. To avoid confusion regarding the Legislature’s finding regarding the current sunset date of section 235-110.97(i), HRS, we recommend that section 1 of the bill, page 1, lines 1-3 be amended to read as follows:

SECTION 1. The legislature finds that the present historic preservation tax credit, as authorized in section 235-110.97(i), Hawaii Revised Statutes, [~~sunset in 2025.~~] is to be repealed on December 31, 2024.

Similarly, there appears to be a typographical error in section 3 of the bill, at page 2, lines 16-17, where it incorrectly purports to amend section 3 of Act 237, SLH 2019,

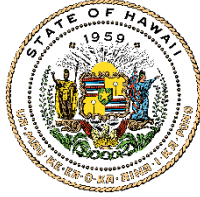
which relates to crime victim compensation for mental health services and not to the historical preservation income tax credit, instead of Act 267, SLH 2019. Accordingly, to accomplish this bill's stated purpose, we recommend amending section 3 of the bill, page 2, lines 16-17, to read as follows:

SECTION 3. Act [~~237,~~ 267, Session Laws of Hawaii 2019, is amended by amending section 3 to read as follows:

Thank you for the opportunity to provide comments on the bill.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HI 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
WATER AND LAND
Wednesday, February 07, 2024
1:00PM
State Capitol Room 229 & Via Videoconference

In consideration of
SENATE BILL 2300
RELATING TO HISTORIC PRESERVATION

Senate Bill 2300 extends the sunset date for the historic preservation tax credit to December 31, 2030, and incrementally increases the cap on the total tax credits from \$1,00,000 in the 2025 taxable year to 4,000,000 in the 2030 taxable year. **The Department of Land and Natural Resources (Department) supports this measure.**

Senate Bill 2300 extends the sunset date for the historic preservation tax credit five years to 2030; raising the cap on total tax credits incrementally from \$1,500,000 in 2025 to \$4,000,000 in 2030. The historic preservation tax credit, as authorized in section 235-110.97(i), Hawaii Revised Statutes, sunsets in 2025. Given this, the existing historic preservation income tax credit will no longer be available following the close of the 2024 taxable year for qualified rehabilitation projects.

The historic preservation tax credit is available to both private residences and income producing properties. Over the past four years, it has primarily been used to rehabilitate historic homes so that they meet contemporary standards. It has also helped to underwrite the rehabilitation and adaptive reuse of commercial buildings. The tax credit has kept both sorts of structures in use while preserving the character and vitality of residential and historic commercial districts. The historic preservation tax credit helps older homeowners, who are living on or soon will be living on fixed incomes to stay in their homes, and helps young homeowners rehabilitate structures, making home ownership and remaining in older homes more affordable. The tax credit helps to alleviate Hawaii's housing crunch. The sunset of the tax credit will come as a great economic loss for those homeowners who wish to assist with the

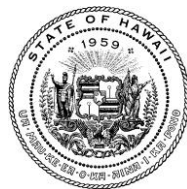
rehabilitation and continued use of historic buildings in the State which are central to the preservation of Hawaiian history and culture.

During the taxable year just ended, the state historic preservation division (SHPD) approved a total tax credit of just under \$1,000,000, the current cap amount. The SHPD is aware of several commercial projects that will use the historic preservation tax credit where the anticipated qualifying expenses, the expenses on which the credit can be claimed, will exceed the current cap by millions of dollars. Since the credit is awarded on a “first come, first served basis” these large projects will make the tax credit unavailable to individuals wishing to use it for smaller, primarily residential, projects. Extending and increasing the tax credit cap will allow property owners with historic residential properties to purchase and stay in their homes while at the same time help commercial property owners to rehabilitate and adaptively reuse underutilized commercial properties.

Mahalo for the opportunity to provide testimony in support of this measure.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 2300, Relating to Historic Preservation.

BEFORE THE:

Senate Committee on Water and Land

DATE: Wednesday, February 07, 2024

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 229

Chair Inouye, Vice-Chair Elefante, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 2300 for your consideration.

S.B. 2300 amends section 235-110.97, Hawaii Revised Statutes (HRS), to extend the sunset date of the Historic Preservation Tax Credit from December 31, 2024, to December 31, 2030, while annually raising the credit's aggregate cap by \$500,000 so that the cap increases from \$1,000,000 for tax year 2024 to \$4,000,000 for tax year 2030. The measure is effective upon approval.

The Department is able to administer this bill as currently drafted, provided the Department of Land and Natural Resources (DLNR) is able to continue certifying the credit as required by section 235-110.97(g), HRS. The Department does not have the subject-matter expertise to certify this credit and is unable to administer the aggregate cap.

Thank you for the opportunity to provide comments on this measure.



Celebrating 50 Years of Preserving Hawai'i's Places

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TO: Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

FROM: Kiersten Faulkner, Executive Director
Historic Hawai'i Foundation

Committee: Wednesday, February 7, 2024
1:00 p.m.
Via Video Conference and Conference Room 229

RE: SB 2300, Relating to Historic Preservation

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **strong support for SB 2300**. The bill would extend the historic preservation tax credit beyond the current sunset date and incrementally increase the cap on the total tax credits allowed annually.

In 2019, the legislature enacted and the governor signed into law a historic preservation tax credit for qualified construction expenses incurred in rehabilitation of historic structures. The program was approved for five-year period and sunsets in 2025 (covering tax year 2024).

Preserving and appropriately using historic buildings are ways to enhance community character, provide affordable housing, provide an alternative to sprawl, create jobs, encourage heritage tourism, and generally spur economic development in older neighborhoods and commercial districts. Historic preservation tax credit programs have proved to be successful incentives for rehabilitating older structures and returning them to useful life.

The State's historic tax credit program is starting to be more widely used and gaining momentum for helping to preserve and rehabilitate historic buildings.

In December 2023, Historic Hawai'i Foundation co-sponsored a technical training on using historic tax credits with partners National Park Service Technical Preservation Services and the Hawai'i State Historic Preservation Division.¹ The program was attended by some 80 interested parties across the state, including those with potential projects.

¹ <https://historichawaii.org/2023/10/27/historic-tax-credits-seminar/>

The presentation included several case studies, including how historic tax credits assist with low income affordable housing. One affordable housing developer noted how they were able to combine the Federal historic tax credit with low income housing tax credits, but were not able to use the State historic tax credit due to limitations on syndication options for investors. They said the applicability for low-income housing projects would be improved by deleting §235-110.97(b) “... The cost upon which the credit is computed shall be determined at the entity level and the distribution and share of the tax credit shall be determined pursuant to section 704(b) of the Internal Revenue Code.”

HHF supports SB 2300 as introduced and would also support the amended language in the interest of improving the applicability for housing projects.

Thank you for the opportunity to comment.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX; Historic Preservation Tax Credit; Extension

BILL NUMBER: HB 1918, SB 2300

INTRODUCED BY: HB by ICHIYAMA, POEPOE; SB by INOUYE

EXECUTIVE SUMMARY: Extends the sunset date for the historic preservation tax credit to December 31, 2030, and incrementally increases the cap on the total tax credits from \$1,000,000 in the 2025 taxable year to \$4,000,000 in the 2030 taxable year.

SYNOPSIS: Amends section 235-110.97, HRS, to provide for an extension of the credit beyond 2024 and to be subject to an aggregate cap as follows:

Year	Aggregate Cap
2025	\$1.5 million
2026	\$2.0
2027	\$2.5
2028	\$3.0
2029	\$3.5
2030	\$4.0

EFFECTIVE DATE: Upon Approval, sunset date December 31, 2030.

STAFF COMMENTS: The tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

If lawmakers want to subsidize the rehabilitation of certified historic buildings, then a direct appropriation would be more accountable and transparent.

Finally, the credit is directed to persons who might have no need for financial assistance. At the moment, we are not aware of data indicating how many taxpayers have taken advantage of this credit and whether the additional amounts are justified. We also are unsure of the public benefit from this credit. Certainly, historic buildings could be preserved; but if people are living in them and are entitled to their privacy, is it worth the supposed millions in revenue loss to have a few more structures available for people to gawk at from adjacent roadways?

We note that the Foundation is not the only one to raise this question. The City and County of Honolulu, for example, has a historic properties exemption from real property tax, and the most recent Oahu Real Property Tax Advisory Commission report (June 30, 2022)¹ stated:

The Commission reiterates the recommendation made by the 2019 Commission that the exemptions provided to historic residential and commercial real properties be amended to increase the minimum real property tax from \$300 to \$1,000. Should the City Council concur with the recommendation to revise and increase the minimum RPT imposed on these properties, this Commission also suggests the City Council consider a means-based qualification, **as well as whether the historical properties program itself continues to serve a necessary and beneficial purpose to the City and its taxpayers, i.e. repeal.**

Report, at 6 (emphasis added).

Digested: 1/26/2024

¹ Available at <https://hnlldoc.ehawaii.gov/hnlldoc/document-download?id=14660>.

SB-2300

Submitted on: 2/5/2024 9:53:57 AM

Testimony for WTL on 2/7/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Comments	Written Testimony Only

Comments:

While I understand the need to help preserve these historic buildings and am sympathetic to a point about the costs involved in that maintenance, I still have concerns about shelling out more tax credits for homeowners that are typically fairly well-off while working families can't even afford a home of any kind—historic or otherwise.