

ACT 306

S.B. NO. 1325

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
QUALIFIED IMPROVEMENT TAX CREDIT**

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

“Net income tax liability” means income tax liability reduced by all other allowed credits, as determined under chapter 235.

“Qualified general facility” means any building or improvement that is not a qualified resort facility.

“Qualified improvement costs” means any capitalized costs for construction and equipment of a permanent nature related to a qualified resort facility or a qualified general facility, including infrastructure costs, but shall not include the costs for which another tax credit was claimed for the taxable year.

“Qualified resort facility” means any building or improvement located or to be located:

- (1) On property designated primarily for resort or hotel use by the applicable county zoning ordinances or general plan; or
- (2) On property not so designated, but the primary purpose of which is for commercial or recreational use to support or service a hotel or resort use, such as a golf course, golf course clubhouse, or retail center.

§ -2 **Qualified improvement tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by chapters 235, 237, 237D, and 239, a qualified improvement tax credit, which shall be available to reduce the taxpayer’s net income tax liability, general excise tax, transient accommodations tax, or public service company tax imposed by these chapters.

(b) The total amount of the qualified improvement tax credit shall be determined by applying the applicable credit percentage to the qualified improvement costs paid by the taxpayer in the taxable year. For qualified improvement costs to a qualified resort facility totalling \$1,000,000 or more over a three-year period,

the applicable credit percentage shall be per cent. For qualified improvement costs to a qualified general facility totalling \$1,000,000 or more over a three-year period, the applicable credit percentage shall be per cent.

(c) The tax credit allowed under this chapter may be taken over a period not to exceed ten consecutive taxable years. The taxpayer shall elect the period and annual allocation of the tax credit in the initial year for which the credit is claimed.

(d) In the case of a partnership, S corporation, estate, or trust, the allowable tax credit is for qualified improvement costs incurred by the entity for the taxable year. The costs upon which the tax credit is computed shall be determined at the entity level. Distribution and share of the tax credit shall be determined by rules adopted pursuant to section -4.

(e) If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code of 1986, as amended, no tax credit shall be allowed for that portion of the qualified improvement costs for which the deduction is taken.

(f) 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 allowed and claimed under this chapter.

(g) The tax credit allowed under this chapter shall be claimed against any or all net income tax liability, general excise tax, transient accommodations tax, or public service company tax for the taxable years over which the credit is claimed.

§ -3 No refund; failure to file. If the amount of the tax credit claimed in any year exceeds the total of the taxpayer's net income tax liability, general excise tax, transient accommodations tax, or public service company tax payable for that taxable year, the excess of credit over liability shall not be refunded to the taxpayer. All claims for a tax credit under this chapter shall be filed on or before the end of the twelfth month following the close of the initial taxable year for which the credit may be claimed. Failure to comply with this section shall constitute a waiver of the right to claim the credit.

§ -4 Forms; rules. The director of taxation shall prepare forms as may be necessary to claim a tax credit under this chapter. The director of taxation may also require the taxpayer to furnish information to ascertain the validity of a claim for a tax credit made under this chapter and may adopt rules necessary to effectuate the purposes of this chapter pursuant to chapter 91.

§ -5 Limitation period. The tax credit allowed under this chapter shall be available for qualified improvement costs incurred during taxable years beginning after December 31, 1998, and before January 1, 2006."

SECTION 2. Notwithstanding any statute, rule, ordinance, or law to the contrary, any impact fees imposed upon a project, the costs of which qualify for and are claimed as a tax credit under this Act, shall be collected over a seven-year period, interest-free, commencing with the completion of the project. For purposes of this section, "impact fees" means the charges imposed upon a developer by the state or a county to fund all or a portion of the public facility capital improvement costs required by the development, or to recoup the cost of existing public facility capital improvements made in anticipation of the needs of the development.

SECTION 3. This Act shall take effect upon its approval; provided that section 1 of this Act shall apply to taxable years beginning after December 31, 1998. Section 2 of this Act shall be repealed on January 1, 2006.

ACT 306

Note

(Became law on July 9, 1999, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)