
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 PART I

2 SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§235-12.5 Renewable energy technologies; income tax**

5 **credit.** (a) When the requirements of subsection ~~[(d)]~~ (c) are
6 met, each individual or corporate taxpayer that files an
7 individual or corporate net income tax return for a taxable year
8 may claim a tax credit under this section against the Hawaii
9 state individual or corporate net income tax. The tax credit
10 may be claimed for ~~[every]~~ eligible ~~[renewable]~~ energy
11 ~~[technology system]~~ property that is installed and placed in
12 service in the State by a taxpayer during the taxable year. The
13 tax credit may be claimed as follows:

14 (1) For ~~[each]~~ solar energy ~~[system: thirty-five per cent~~
15 ~~of the actual cost or the cap amount determined in~~
16 ~~subsection (b), whichever is less; or]~~ property that

- 1 produces electricity or heats water for use in the
- 2 primary residence of the taxpayer claiming the credit:
- 3 (A) Thirty per cent of the basis of a solar energy
- 4 property installed and placed in service after
- 5 December 31, 2012, but prior to January 1, 2014;
- 6 (B) Twenty-five per cent of the basis of a solar
- 7 energy property installed and placed in service
- 8 after December 31, 2013, but prior to January 1,
- 9 2015; or
- 10 (C) Twenty per cent of the basis of a solar energy
- 11 property installed and placed in service on or
- 12 after January 1, 2015;
- 13 (2) For other non-utility scale solar energy property
- 14 designed to produce electricity:
- 15 (A) Twenty-five per cent of the basis of a solar
- 16 energy property installed and placed in service
- 17 after December 31, 2012, but prior to January 1,
- 18 2014; or
- 19 (B) Twenty per cent of the basis of a solar energy
- 20 property installed and placed in service on or
- 21 after January 1, 2014;

- 1 (3) For utility scale solar energy property installed and
2 placed into service after December 31, 2012: \$0.08
3 per kilowatt hour produced and sold during the first
4 one hundred twenty months of the property's operation;
- 5 [~~(2)~~] (4) For [each wind-powered energy system: twenty per
6 cent of the actual cost or the cap amount determined
7 in subsection (b), whichever is less;] wind energy
- 8 property that produces electricity for use in the
9 primary residence of the taxpayer claiming the credit:
10 twenty per cent of the basis of wind energy property
11 installed and placed in service;
- 12 (5) For other non-utility scale wind energy property that
13 produces electricity: twenty per cent of the basis of
14 the wind energy property installed and placed into
15 service; or
- 16 (6) For utility scale wind energy property installed and
17 placed into service after December 31, 2012: \$0.015
18 per kilowatt hour produced and sold during the first
19 one hundred twenty months of the property's operation;
20 provided that multiple owners of [~~a single system~~] energy
21 property shall be entitled to a single tax credit; and provided

1 further that the tax credit shall be apportioned between the
2 owners in proportion to their contribution to the [~~cost of the~~
3 ~~system.~~] basis of the energy property.

4 In the case of a partnership, S corporation, estate, or
5 trust, the tax credit allowable is for [~~every~~] eligible
6 [~~renewable~~] energy [~~technology system~~] property that is
7 installed and placed in service in the State by the entity. The
8 [~~cost~~] basis upon which the tax credit is computed shall be
9 determined at the entity level. Distribution and share of
10 credit shall be determined pursuant to section [~~235-110.7(a).~~]
11 235-110.7.

12 [~~(b) The amount of credit allowed for each eligible~~
13 ~~renewable energy technology system shall not exceed the~~
14 ~~applicable cap amount, which is determined as follows:~~

15 ~~(1) If the primary purpose of the solar energy system is~~
16 ~~to use energy from the sun to heat water for household~~
17 ~~use, then the cap amounts shall be:~~

18 ~~(A) \$2,250 per system for single-family residential~~
19 ~~property;~~

20 ~~(B) \$350 per unit per system for multi-family~~
21 ~~residential property; and~~

- 1 ~~(C) \$250,000 per system for commercial property;~~
- 2 ~~(2) For all other solar energy systems, the cap amounts~~
- 3 ~~shall be:~~
- 4 ~~(A) \$5,000 per system for single-family residential~~
- 5 ~~property; provided that if all or a portion of~~
- 6 ~~the system is used to fulfill the substitute~~
- 7 ~~renewable energy technology requirement pursuant~~
- 8 ~~to section 196-6.5(a)(3), the credit shall be~~
- 9 ~~reduced by thirty-five per cent of the actual~~
- 10 ~~system cost or \$2,250, whichever is less;~~
- 11 ~~(B) \$350 per unit per system for multi-family~~
- 12 ~~residential property; and~~
- 13 ~~(C) \$500,000 per system for commercial property; and~~
- 14 ~~(3) For all wind-powered energy systems, the cap amounts~~
- 15 ~~shall be:~~
- 16 ~~(A) \$1,500 per system for single-family residential~~
- 17 ~~property; provided that if all or a portion of~~
- 18 ~~the system is used to fulfill the substitute~~
- 19 ~~renewable energy technology requirement pursuant~~
- 20 ~~to section 196-6.5(a)(3), the credit shall be~~

1 ~~reduced by twenty per cent of the actual system~~
2 ~~cost or \$1,500, whichever is less;~~
3 ~~(B) \$200 per unit per system for multi-family~~
4 ~~residential property; and~~
5 ~~(C) \$500,000 per system for commercial property.~~
6 ~~(e)]~~ (b) For the purposes of this section:
7 ~~["Actual cost"]~~ "Basis" means costs related to the
8 ~~[renewable] energy [technology systems]~~ property under
9 subsection (a), including accessories and installation, but ~~[not~~
10 ~~including]~~ does not include the cost of consumer incentive
11 premiums unrelated to the operation of the ~~[system]~~ energy
12 property or offered with the sale of the ~~[system]~~ energy
13 property, all costs associated with the storage of the
14 electricity produced by the energy property such as but not
15 limited to batteries, and costs for which another credit is
16 claimed under this chapter. Any cost incurred and paid for the
17 repair, construction, or reconstruction of a structure in
18 conjunction with the installation and placing in service of
19 solar or wind energy property shall not constitute a part of the
20 basis for the purpose of this section.

1 ~~["Household use" means any use to which heated water is~~
2 ~~commonly put in a residential setting, including commercial~~
3 ~~application of those uses.~~

4 ~~"Renewable energy technology system"]~~ "Energy property"
5 means [a] new [~~system~~] tangible property that captures and
6 converts a renewable source of energy[~~, such as solar or wind~~
7 ~~energy,~~] into:

- 8 (1) A usable source of thermal or mechanical energy;
9 (2) Electricity; or
10 (3) Fuel.

11 ~~["Solar or wind energy system" means]~~ Energy property
12 includes solar energy property or wind energy property, which
13 includes any identifiable facility, equipment, apparatus, or the
14 like that converts solar or wind energy to useful thermal or
15 electrical energy for heating, cooling, or reducing the use of
16 other types of energy that are dependent upon fossil fuel for
17 their generation.

18 "Utility scale" means solar or wind energy property that
19 is:

- 20 (1) Designed, installed, and placed into service to
21 produce electricity;

1 (2) Interconnected to a utility grid at sub-transmission
2 or transmission voltage; and

3 (3) Subject to a feed-in tariff or power purchase
4 agreement approved by the public utilities commission.

5 [~~d~~] (c) For taxable years beginning after December 31,
6 2005, the dollar amount of any utility rebate shall be deducted
7 from the cost of the qualifying [~~system~~] energy property and its
8 installation before applying the state tax credit.

9 [~~e~~] (d) The director of taxation shall prepare any forms
10 that may be necessary to claim a tax credit under this section,
11 including forms identifying the technology type of each tax
12 credit claimed under this section, whether for solar or wind.

13 The director may also require the taxpayer to furnish reasonable
14 information to ascertain the validity of the claim for credit
15 made under this section and may adopt rules necessary to
16 effectuate the purposes of this section pursuant to chapter 91.

17 [~~f~~] (e) If the tax credit under this section exceeds the
18 taxpayer's income tax liability, the excess of the credit over
19 liability may be used as a credit against the taxpayer's income
20 tax liability in subsequent years until exhausted, unless
21 otherwise elected by the taxpayer pursuant to subsection [~~g~~]

1 (f), (g), or (h). All claims for the tax credit under this
2 section, including amended claims, shall be filed on or before
3 the end of the twelfth month following the close of the taxable
4 year for which the credit may be claimed. Failure to comply
5 with this subsection shall constitute a waiver of the right to
6 claim the credit. An election once made is irrevocable.

7 ~~[(g)]~~ (f) For primary residence and non-utility scale
8 solar energy ~~[systems,~~ property, a taxpayer may elect to reduce
9 the eligible credit amount by thirty per cent and if this
10 reduced amount exceeds the amount of income tax payment due from
11 the taxpayer, the excess of the credit amount over payments due
12 shall be refunded to the taxpayer; provided that tax credit
13 amounts properly claimed by a taxpayer who has no income tax
14 liability shall be paid to the taxpayer; and provided further
15 that no refund on account of the tax credit allowed by this
16 section shall be made for amounts less than \$1.

17 The election required by this subsection shall be made in a
18 manner prescribed by the director on the taxpayer's return for
19 the taxable year in which the ~~[system]~~ solar energy property is
20 installed and placed in service. ~~[A separate election may be~~

1 ~~made for each separate system that generates a credit.]~~ An
2 election once made is irrevocable.

3 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)],~~ (f), for any
4 ~~[renewable]~~ energy ~~[technology system,]~~ property, an individual
5 taxpayer may elect to have any excess of the credit over
6 payments due refunded to the taxpayer, if:

7 (1) All of the taxpayer's income is exempt from taxation
8 under section 235-7(a)(2) or (3); or

9 (2) The taxpayer's adjusted gross income is \$20,000 or
10 less (or \$40,000 or less if filing a tax return as
11 married filing jointly);

12 provided that tax credits properly claimed by a taxpayer who has
13 no income tax liability shall be paid to the taxpayer; and
14 provided further that no refund on account of the tax credit
15 allowed by this section shall be made for amounts less than \$1.

16 A husband and wife who do not file a joint tax return shall
17 only be entitled to make this election to the extent that they
18 would have been entitled to make the election had they filed a
19 joint tax return.

20 The election required by this subsection shall be made in a
21 manner prescribed by the director on the taxpayer's return for

1 the taxable year in which the [~~system~~] energy property is
2 installed and placed in service. [~~A separate election may be~~
3 ~~made for each separate system that generates a credit.~~] An
4 election once made is irrevocable.

5 (h) For utility scale solar energy and wind energy
6 property, a taxpayer may elect to have any excess of the credit
7 over payments due refunded to the taxpayer.

8 (i) No taxpayer shall be allowed a credit under this
9 section for the portion of the [~~renewable~~] energy [~~technology~~
10 ~~system~~] property required by section 196-6.5 that is installed
11 and placed in service on any newly constructed single-family
12 residential property authorized by a building permit issued on
13 or after January 1, 2010.

14 (j) To the extent feasible, using existing resources to
15 assist the energy-efficiency policy review and evaluation, the
16 department shall assist with data collection on the following
17 for each taxable year:

18 (1) The number of [~~renewable~~] energy [~~technology systems~~]
19 properties that have qualified for a tax credit during
20 the calendar year by:

21 (A) Technology type; and

- 1 (B) Taxpayer type (corporate and individual); and
- 2 (2) The total cost of the tax credit to the State during
- 3 the taxable year by:
- 4 (A) Technology type; and
- 5 (B) Taxpayer type.

6 (k) For all energy property to which subsection (a)(3) or
7 (a)(6) apply, each taxpayer, for each solar energy property or
8 wind energy property, shall apply for and receive tax credit
9 certification from the department of business, economic
10 development, and tourism prior to claiming the credit.

11 To qualify for certification:

12 (1) A taxpayer under a feed-in tariff shall provide the
13 department of business, economic development, and
14 tourism with a dated copy of utility interconnection
15 costs and requirements estimate from the applicable
16 electric utility company; and

17 (2) A taxpayer under a power purchase agreement shall
18 provide the department of business, economic
19 development, and tourism with documentation from the
20 public utilities commission demonstrating the
21 commission's approval of the power purchase agreement.

1 Upon receiving and reviewing the information required under
2 paragraphs (1) and (2), the department of business, economic
3 development, and tourism shall determine if the taxpayer
4 qualifies for certification for the credit. In no case shall
5 the department of business, economic development, and tourism
6 qualify any taxpayer for certification after December 31, 2018.

7 (1) The department of business, economic development, and
8 tourism shall:

9 (1) Verify the number of kilowatt hours produced and sold
10 by each taxpayer during each calendar year;

11 (2) Total all tax credits that the department of business,
12 economic development, and tourism certifies pursuant
13 to this section;

14 (3) Certify the total amount of the tax credit for each
15 taxable year and the cumulative amount of the tax
16 credit during the credit period; and

17 (4) Carry forward any certified tax credits in excess of
18 the applicable aggregate cap amount for each calendar
19 year.

20 In January of each year, the department of business,
21 economic development, and tourism shall determine the order that

1 credits shall be certified by contacting taxpayers qualified
2 under subsection (k) in the order of the date the taxpayers
3 received qualified status. A taxpayer that elects to claim a
4 credit under subsection (a) (3) or (a) (6) shall provide the
5 department of business, economic development, and tourism with
6 reports from the electric utility company demonstrating the
7 number of kilowatt hours produced and sold by the taxpayer
8 during the calendar year. A taxpayer shall not cease to be
9 qualified under subsection (k) solely for electing not to claim
10 a credit under subsection (a) (3) or (a) (6).

11 Upon each certification, the department of business,
12 economic development, and tourism shall issue a certificate to
13 the taxpayer. The taxpayer shall file the certificate with the
14 taxpayer's tax return with the department of taxation in order
15 to claim the tax credit.

16 Notwithstanding the department of business, economic
17 development, and tourism's certification authority under this
18 section, the director of taxation may audit and adjust the
19 certification to conform to the facts.

20 If in any year, the annual amount of certified credits for
21 solar energy properties reaches the applicable aggregate cap

1 amount, the department of business, economic development, and
 2 tourism shall notify the department of taxation and carry
 3 forward all certified tax credits in excess of the applicable
 4 aggregate cap amount to the following year. The aggregate cap
 5 amount for solar energy property shall be determined as follows:

<u>Calendar Year</u>	<u>Aggregate Cap Amount</u>
7 <u>2013</u>	<u>\$6,000,000</u>
8 <u>2014</u>	<u>\$9,000,000</u>
9 <u>2015</u>	<u>\$12,000,000</u>
10 <u>2016 and thereafter</u>	<u>\$13,500,000</u>

11 In no instance shall the total amount of certified credits for
 12 solar energy property exceed the applicable aggregate cap
 13 amount. Notwithstanding any other law to the contrary, this
 14 information shall be available for public inspection and
 15 dissemination under chapter 92F.

16 If in any year, the annual amount of certified credits for
 17 wind energy properties reaches the applicable aggregate cap
 18 amount, the department of business, economic development, and
 19 tourism shall notify the department of taxation and carry
 20 forward all certified tax credits in excess of the applicable

1 aggregate cap amount to the following year. The aggregate cap
 2 amount for wind energy property shall be determined as follows:

3 <u>Calendar Year</u>	<u>Aggregate Cap Amount</u>
4 <u>2013</u>	<u>\$2,000,000</u>
5 <u>2014</u>	<u>\$4,000,000</u>
6 <u>2015</u>	<u>\$6,000,000</u>
7 <u>2016 and thereafter</u>	<u>\$10,000,000</u>

8 In no instance shall the total amount of certified credits for
 9 wind energy property exceed the applicable aggregate cap amount.

10 Notwithstanding any other law to the contrary, this information
 11 shall be available for public inspection and dissemination under
 12 chapter 92F.

13 (m) The director of business, economic development, and
 14 tourism may adopt rules as may be necessary or appropriate to
 15 carry out the purposes of subsection (l).

16 (n) The basis of eligible energy property for the purpose
 17 of depreciation and disposition of the energy property shall be
 18 reduced by fifty per cent of the amount of credit allowable and
 19 claimed under this section.

20 [~~(k)~~] (o) This section shall apply to eligible [~~renewable~~]
 21 energy [~~technology systems~~] properties that are installed and

1 placed in service [~~on or~~] after [~~July 1, 2009.~~] December 31,
2 2012, and before January 1, 2019."

3 PART II

4 SECTION 2. Independent power producers not currently
5 regulated by the public utilities commission that have submitted
6 an agreement with an electric utility company for approval by
7 the public utilities commission by March 31, 2013, shall be
8 allowed tax credits as authorized in the 2012 calendar year for
9 energy properties placed into service after December 31, 2012,
10 as part of the agreement.

11 PART III

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act, upon its approval, shall apply to
15 taxable years beginning after December 31, 2012.

Report Title:

Renewable Energy Technology; Tax Credit

Description:

Amends the renewable energy technologies income tax credit to (1) improve consistency with the Internal Revenue Code; (2) require tax credits to be certified by DBEDT; (3) establish an aggregate tax cap; and specify that the tax credit applies to energy properties placed in service between 1/1/2013 and 12/31/2018. Authorizes independent power producers not currently regulated by PUC that have submitted an agreement with an electric utility company for approval by PUC by 3/31/2013 to receive tax credits authorized in calendar year 2012 for energy properties placed into service after 12/31/2012, as part of the agreement. (CD1 Proposed)

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