

JAN 28 2009

S.B. NO. 1198

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. The purpose of this Act is to clarify
2 provisions of Act 204, Session Laws of Hawaii, 2008, with
3 respect to variances for solar water heater systems. The
4 legislature finds that the variances provided for in this Act
5 will be rarely if ever exercised or granted because the burden
6 of proof will lie with the applicant to prove that a solar water
7 heating system, regardless of location or circumstance, is not
8 cost effective in the context of a thirty-year mortgage term.
9 This requires the use of realistic assumptions regarding
10 interest rates, discount rates, inflation rates and the expected
11 average cost of electricity by island over the thirty-year
12 period, regardless of the cost of electricity, or of oil or some
13 other fossil fuel, at a specific point in time.

14 The legislature also finds that the continuation of the
15 renewable energy income tax credit needs to remain available for
16 all homes built before January 1, 2010.



1 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) On or after January 1, 2010, no building permit shall
4 be issued for a new single-family dwelling that does not include
5 a solar water heater system that meets the standards established
6 pursuant to section 269-44, unless the energy resources
7 coordinator [~~approves~~] accepts a variance. A variance
8 application shall only be [~~approved~~] accepted if submitted by an
9 architect or mechanical engineer licensed under chapter 464, who
10 attests that:

- 11 (1) Installation is impracticable due to poor solar
12 resource;
- 13 (2) Installation is cost-prohibitive based upon a life
14 cycle cost-benefit analysis that incorporates the
15 average residential utility bill and the cost of the
16 new solar water heater system with a life cycle that
17 does not exceed fifteen years;
- 18 (3) A [~~substitute~~] renewable energy technology system, as
19 defined in section 235-12.5, is [~~used~~] substituted for
20 use as the primary energy source for heating water; or
- 21 (4) A demand water heater device approved by Underwriters
22 Laboratories, Inc., is installed; provided that at



1 least one other gas appliance is installed in the
2 dwelling. For the purposes of this paragraph, "demand
3 water heater" means a gas-tankless instantaneous water
4 heater that provides hot water only as it is needed.

5 (b) A request for a variance shall be submitted to the
6 energy resources coordinator on an application prescribed by the
7 energy resources coordinator and shall include, but not be
8 limited to, a description of the location of the property and
9 justification for the approval of a variance using the criteria
10 established in subsection (a). A variance shall be deemed
11 approved if not denied within thirty working days after receipt
12 of the variance application. The energy resources coordinator
13 shall publicize:

14 (1) All applications for a variance within seven days
15 after receipt of the variance application; and

16 (2) The disposition of all variance applications for a
17 variance within seven days of the determination of the
18 variance application."

19 SECTION 3. Section 235-12.5, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) When the requirements of subsection (c) are met, each
22 individual or corporate taxpayer that files an individual or



1 corporate net income tax return for a taxable year may claim a
2 tax credit under this section against the Hawaii state
3 individual or corporate net income tax. The tax credit may be
4 claimed for every eligible renewable energy technology system
5 that is installed and placed in service in the State by a
6 taxpayer during the taxable year. This credit shall be
7 available for systems installed and placed in service in the
8 State after June 30, 2003. The tax credit may be claimed as
9 follows:

10 (1) Solar thermal energy systems for:

11 (A) Single-family residential property for which a
12 building permit for a single-family dwelling was
13 issued prior to January 1, 2010: thirty-five per
14 cent of the actual cost or \$2,250, whichever is
15 less;

16 (B) Multi-family residential property: thirty-five
17 per cent of the actual cost or \$350 per unit,
18 whichever is less; and

19 (C) Commercial property: thirty-five per cent of the
20 actual cost or \$250,000, whichever is less;

21 (2) Wind-powered energy systems for:



- 1 (A) Single-family residential property: twenty per
2 cent of the actual cost or \$1,500, whichever is
3 less[+], unless all or a portion of the system is
4 used to fulfill the substitute renewable energy
5 requirement pursuant to section 196-6.5(a)(3),
6 then the credit shall be reduced by twenty per
7 cent of the actual system cost or \$1,500,
8 whichever is less;
- 9 (B) Multi-family residential property: twenty per
10 cent of the actual cost or \$200 per unit,
11 whichever is less; and
- 12 (C) Commercial property: twenty per cent of the
13 actual cost or \$500,000, whichever is less; and
- 14 (3) Photovoltaic energy systems for:
- 15 (A) Single-family residential property: thirty-five
16 per cent of the actual cost or \$5,000, whichever
17 is less[+], unless all or a portion of the system
18 is used to fulfill the substitute renewable
19 energy requirement pursuant to section 196-
20 6.5(a)(3), then the credit shall be reduced by
21 thirty five per cent of the actual system cost or
22 \$2,250, whichever is less;



1 (B) Multi-family residential property: thirty-five
2 per cent of the actual cost or \$350 per unit,
3 whichever is less; and

4 (C) Commercial property: thirty-five per cent of the
5 actual cost or \$500,000, whichever is less;

6 provided that multiple owners of a single system shall be
7 entitled to a single tax credit; and provided further that the
8 tax credit shall be apportioned between the owners in proportion
9 to their contribution to the cost of the system.

10 In the case of a partnership, S corporation, estate, or
11 trust, the tax credit allowable is for every eligible renewable
12 energy technology system that is installed and placed in service
13 in the State by the entity. The cost upon which the tax credit
14 is computed shall be determined at the entity level.

15 Distribution and share of credit shall be determined pursuant to
16 section 235-110.7(a)."

17 SECTION 4. Section 269-44, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[~~†~~]**\$269-44**[~~†~~] **Solar water heater system standards.** Not
20 later than [~~July 1, 2009,~~] _____, or as soon as reasonably
21 practicable, the public utilities commission shall adopt [~~or~~
22 ~~establish by rule, tariff, or order,~~] standards for solar water



1 heater systems [~~to include, but not be limited to,~~
 2 ~~specifications for the performance, materials, components,~~
 3 ~~durability, longevity, proper sizing, installation, and quality~~
 4 ~~to promote the objectives of section 269-124.]; provided that
 5 the public utilities commission may contract with the public
 6 benefits administrator for the development of standards that may
 7 be adopted by the public utilities commission."~~

8 SECTION 5. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval
 11 and apply to taxable year beginning after December 31, 2008.

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Report Title:

Renewable Energy Technologies; Tax Credit; Solar Water Heating

Description:

Clarifies solar water heater variance request procedures and authority and provides guidance with respect to solar water heater system standards.

