

JAN 23 2009

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The purpose of this Act is to support the
2 renewable energy industry in Hawaii by:

3 (1) Establishing a division of renewable energy in the
4 department of business, economic development, and
5 tourism to coordinate and promote renewable energy
6 initiatives; and

7 (2) Establishing a renewable energy business investment
8 earned income tax credit.

9 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§201- Renewable energy division; established. (a)

13 There is established, within the department of business,
14 economic development, and tourism, a division of renewable
15 energy.

16 (b) The division shall:



- 1 (1) Develop policies that promote and strengthen the
2 commercialization of Hawaii's renewable energy
3 resources and technologies to reduce the State's high
4 dependence on imported oil and increase local economic
5 development;
- 6 (2) Support Hawaii's renewable portfolio standards
7 pursuant to chapter 269, part V;
- 8 (3) Maintain renewable energy business investment earned
9 income tax credit information pursuant to chapter
10 235- ;
- 11 (4) Provide resource data, technical and economic
12 analyses, and support for research of renewable
13 energy;
- 14 (5) Provide opportunities for demonstration, development,
15 and application of renewable energy;
- 16 (6) Promote partnerships and technology transfer; and
- 17 (7) Assist with and promote public outreach related to
18 renewable energy resources and technologies.
- 19 (c) Notwithstanding any other law to the contrary, if any
20 of the responsibilities or duties of the division of renewable
21 energy under this section overlap with the responsibilities or
22 duties of another agency or authority under this chapter, the



1 division of renewable energy shall have exclusive jurisdiction
2 and authority over those responsibilities and duties."

3 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§235- Renewable energy business investment, earned
7 income tax credit. (a) There shall be allowed to each taxpayer
8 subject to the taxes imposed by this chapter a renewable energy
9 business investment tax credit that shall be deductible from the
10 taxpayer's earned income tax liability, if any, imposed by this
11 chapter for the taxable year in which the investment was made
12 and the following four years; provided the credit is properly
13 claimed. The tax credit shall be as follows:

- 14 (1) In the year the investment was made, thirty-five per
15 cent;
- 16 (2) In the first year following the year in which the
17 investment was made, twenty-five per cent;
- 18 (3) In the second year following the investment, twenty
19 per cent;
- 20 (4) In the third year following the investment, ten per
21 cent; and



1 (5) In the fourth year following the investment, ten per
2 cent;
3 of the investment made by the taxpayer in each qualified
4 renewable energy business.

5 The credit allowed under this section shall be claimed
6 against the earned income tax liability for the taxable year.

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

17 (c) If at the close of any taxable year in the five-year
18 period in subsection (a):

19 (1) The business no longer qualifies as a qualified
20 renewable energy business;



1 (2) The business or an interest in the business has been
2 sold by the taxpayer investing in the qualified
3 renewable energy business; or
4 (3) The taxpayer has withdrawn the taxpayer's investment
5 wholly or partially from the qualified renewable
6 energy business;
7 the credit claimed under this section shall be recaptured. The
8 recapture shall be equal to ten per cent of the amount of the
9 total tax credit claimed under this section in the preceding two
10 taxable years. The amount of the credit recaptured shall apply
11 only to the investment in the particular qualified renewable
12 energy business that meets the requirements of paragraph (1),
13 (2), or (3). The recapture provisions of this subsection shall
14 not apply to a tax credit claimed for a qualified renewable
15 energy business that does not fall within the provisions of
16 paragraph (1), (2), or (3). The amount of the recaptured tax
17 credit determined under this subsection shall be added to the
18 taxpayer's tax liability for the taxable year in which the
19 recapture occurs under this subsection.

20 (d) The director of taxation shall prepare forms as may be
21 necessary to claim a credit under this section. The director of
22 taxation may also require the taxpayer to furnish information to



1 ascertain the validity of the claim for credit made under this
2 section and may adopt rules necessary to effectuate the purposes
3 of this section pursuant to chapter 91.

4 (e) Every taxpayer, no later than ninety days following
5 the end of each taxable year an investment in a qualified
6 renewable energy business was made in the previous taxable year,
7 shall submit a written, certified statement to the department of
8 business, economic development, and tourism, identifying:

- 9 (1) Qualified investments, if any, expended in the
10 previous taxable year; and
11 (2) The amount of tax credits claimed pursuant to this
12 section, if any, in the previous taxable year.

13 (f) The department of business, economic development, and
14 tourism shall:

15 (1) Maintain records of the names and addresses of the
16 taxpayers claiming the credits under this section and
17 the total amount of the qualified investment costs
18 upon which the tax credit is based;

19 (2) Verify the nature and amount of the qualifying
20 investments;

21 (3) Total all qualifying and cumulative investments that
22 the department certifies; and



1 (4) Certify the amount of the tax credit for each taxable
2 year and cumulative amount of the tax credit.

3 Upon each determination made under this subsection, the
4 department of business, economic development, and tourism shall
5 issue a letter to the taxpayer verifying information submitted
6 to the department, including qualifying investment amounts, the
7 credit amount certified for each taxable year, and the
8 cumulative amount of the tax credit during the credit period.

9 The taxpayer shall file the letter with the taxpayer's tax
10 return with the department of taxation. Notwithstanding the
11 authority of the department of business, economic development,
12 and tourism under this section, the director of taxation may
13 audit and adjust the tax credit amount to conform to the
14 information filed by the taxpayer.

15 (g) As used in this section:

16 "Earned income" means the net profit from the renewable
17 energy business, but not investment income such as dividends and
18 interest.

19 "Earned income tax liability" means net earned income tax
20 liability reduced by all other credits allowed under this
21 chapter.



1 "Qualified renewable energy business" means a renewable
2 energy business established in this State after December 31,
3 2009, and before January 1, 2020.

4 "Renewable energy" means energy produced by solar, energy
5 conserved by passive solar design/daylighting, ocean thermal,
6 wind, wave, geothermal, waste-to-energy, or biomass power.

7 (h) This section shall not apply to taxable years
8 beginning after December 31, 2019."

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act, upon its approval, shall apply to
11 taxable years beginning after December 31, 2009.

12

INTRODUCED BY: 



Report Title:

Renewable Energy; DBEDT Division; Tax Credit

Description:

Establishes a division of renewable energy in the department of business, economic development, and tourism to coordinate and promote renewable energy initiatives; and establishes a renewable energy business investment earned income tax credit.

