
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Following the 2009 legislative session, the
2 chairs of the senate committee on economic development and
3 technology and the house committee on economic revitalization,
4 business and military affairs convened a technology caucus work
5 group to bring together industry stakeholders and interested
6 policymakers to develop recommendations for legislation to
7 enhance Hawaii's struggling economy. The work group provided a
8 forum to review the current status of Hawaii's
9 science/technology industry, identify state or county actions
10 that impede long-term growth and expansion of technology
11 companies, and develop recommendations to address these
12 impediments. The work group also identified best practices
13 supporting the growth and development of science/technology
14 industries in other jurisdictions to aid in developing proposed
15 suggestions for future legislation.

16 The legislature finds that with respect to commercial
17 renewable energy project developments, a number of industry



1 members have faced difficulties in raising sufficient investment
2 capital and construction financing. Some commercial renewable
3 energy projects in this State have also not been financially
4 feasible or practical for investors to engage in because of the
5 current limitations to the federal and State renewable energy
6 tax incentives. Further complicating commercial projects in
7 this State are the unique characteristics of Hawaii, such as the
8 high cost and scarcity of land, high construction and labor
9 costs, difficulties in engaging specialized service providers
10 (resulting in the engagement of mainland service providers), and
11 higher shipping and freight costs. Moreover, companies
12 frequently cited experiences with investors who believe Hawaii's
13 regulatory agencies and legislative branch are not consistent
14 and certain laws of the State are not applied with absolute
15 certainty on a going forward basis.

16 These concerns have been fueled by recent legislative and
17 judicial activities, such as Act 178, Session Laws of Hawaii
18 2009 (affecting the high technology business investment tax
19 credit), and *Sierra Club v. Department of Transportation*, 120
20 Hawaii 181 (2009) (the Superferry case), which have led to a
21 perceived high political risk associated with making large
22 financial investments in Hawaii.



1 In order for Hawaii to be a leader in the renewable energy
2 industry and to also meet the objectives of the Hawaii Clean
3 Energy Initiative, the State needs to revise its tax incentives
4 related to the renewable energy technologies income tax credit
5 so that the State can strive to be at the forefront of the
6 competition. Tax incentives that are financially sensible for
7 the State but still generous to investors will help to attract
8 much needed capital from local, mainland, and international
9 investors that will help to stimulate renewable energy activity
10 in Hawaii.

11 The purpose of this Act is to implement recommendations of
12 the technology caucus work group by revising the existing
13 renewable energy technologies income tax credit to provide tax
14 incentives that make financial sense for investors to develop
15 large commercial renewable energy projects in this State.

16 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
17 amended by adding a new section to article 7 to be appropriately
18 designated and to read as follows:

19 "§431:7- Renewable energy technologies; income tax
20 credit. The renewable energy technologies income tax credit
21 provided under section 235-12.5 shall be operative for all
22 taxpayers subject to this chapter for taxable years beginning



1 after December 31, 2009; provided that the renewable energy
2 system was installed and placed in service after December 31,
3 2009."

4 SECTION 3. Section 235-12.5, Hawaii Revised Statutes, is
5 amended by amending subsections (a) to (c) to read as follows:

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

15 (1) For each solar energy system[+] installed and operated
16 on residential property: thirty-five per cent of the
17 actual cost or the cap amount determined in subsection
18 (b), whichever is less; [~~or~~]

19 (2) For each solar energy system installed and operated on
20 commercial property:

21 (A) Thirty-five per cent of the actual cost or the
22 cap amount determined in subsection (b),



1 whichever is less, in the year the solar energy
2 system is placed in service;

3 (B) Ten per cent of the actual cost or the cap amount
4 determined in subsection (b), whichever is less,
5 in the second year following the year the solar
6 energy system is placed in service; and

7 (C) Five per cent of the actual cost or the cap
8 amount determined in subsection (b), whichever is
9 less, in the third year following the year the
10 solar energy system is placed in service; or

11 ~~[-2-]~~ (3) For each wind-powered energy system: twenty per
12 cent of the actual cost or the cap amount determined
13 in subsection (b), whichever is less;

14 provided that multiple owners of a single system shall be
15 entitled to a single tax credit; and provided further that the
16 tax credit shall be apportioned between the owners in proportion
17 to their contribution to the cost of the system.

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



1 Distribution and share of credit shall be determined pursuant to
2 section 235-110.7(a).

3 (b) The amount of credit allowed for each eligible
4 renewable energy technology system shall not exceed the
5 applicable cap amount, which is determined as follows:

6 (1) If the primary purpose of the solar energy system is
7 to use energy from the sun to heat water for household
8 use, then the cap amounts shall be:

9 (A) \$2,250 per system for single-family residential
10 property;

11 (B) \$350 per unit per system for multi-family
12 residential property; and

13 (C) [~~\$250,000~~] \$ _____ per system for commercial
14 property;

15 (2) For all other solar energy systems, the cap amounts
16 shall be:

17 (A) \$5,000 per system for single-family residential
18 property; provided that if all or a portion of
19 the system is used to fulfill the substitute
20 renewable energy technology requirement pursuant
21 to section 196-6.5(a)(3), the credit shall be



- 1 reduced by thirty-five per cent of the actual
- 2 system cost or \$2,250, whichever is less;
- 3 (B) \$350 per unit per system for multi-family
- 4 residential property; and
- 5 (C) [~~\$500,000~~] \$ _____ per system for commercial
- 6 property; and

7 (3) For all wind-powered energy systems, the cap amounts
8 shall be:

- 9 (A) \$1,500 per system for single-family residential
- 10 property; provided that if all or a portion of
- 11 the system is used to fulfill the substitute
- 12 renewable energy technology requirement pursuant
- 13 to section 196-6.5(a)(3), the credit shall be
- 14 reduced by twenty per cent of the actual system
- 15 cost or \$1,500, whichever is less;

- 16 (B) \$200 per unit per system for multi-family
- 17 residential property; and

- 18 (C) [~~\$500,000~~] \$ _____ per system for commercial
- 19 property.

20 (c) For the purposes of this section:

21 "Actual cost" means costs related to the renewable energy
22 technology systems under subsection (a), including accessories



1 and installation, but not including the cost of consumer
2 incentive premiums unrelated to the operation of the system or
3 offered with the sale of the system and costs for which another
4 credit is claimed under this chapter.

5 "Commercial property" means real property that is zoned for
6 business or industrial use and includes a building or structure
7 that operates a service, or retail-oriented, business or
8 organization for public consumers.

9 "Household use" means any use to which heated water is
10 commonly put in a residential setting, including commercial
11 application of those uses.

12 "Renewable energy technology system" means a new system
13 that captures and converts a renewable source of energy, such as
14 solar or wind energy, into:

- 15 (1) A usable source of thermal or mechanical energy;
16 (2) Electricity; or
17 (3) Fuel.

18 "Solar or wind energy system" means any identifiable
19 facility, equipment, apparatus, or the like that converts solar
20 or wind energy to useful thermal or electrical energy for
21 heating, cooling, or reducing the use of other types of energy
22 that are dependent upon fossil fuel for their generation."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act, upon its approval, shall apply to
4 taxable years beginning after December 31, 2009; provided that
5 the renewable energy system that is subject to this Act was
6 installed and placed in service after December 31, 2009.

7



Report Title:

Renewable Energy Tax Credit; Commercial Property

Description:

Amends section 235-12.5, HRS, to expand the credit for renewable energy projects installed on commercial properties, reduces the credit reduction for taxpayers seeking a refundable credit, and amends chapter 431, HRS, to expressly allow insurance companies to be eligible to claim a renewable energy technologies income tax credit. (SD1)

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