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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

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

3           "**§235-12.5 Renewable energy technologies; income tax**

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

13           (1) For each solar energy [~~system~~] property that is used  
14 explicitly to heat water and is installed and place in  
15 service in the State by a taxpayer during the taxable  
16 year: thirty-five per cent of the [~~actual cost or the~~  
17 ~~cap amount determined in subsection (b), whichever is~~



1 less; or] basis up to the applicable cap amount, which  
2 shall be determined as follows:

3 (A) \$2,500 per property for single-family residential  
4 property;

5 (B) \$500 per unit per property for multi-family  
6 residential property; and

7 (C) \$250,000 per property for commercial property; or

8 (2) For each solar energy property that is used primarily  
9 to generate electricity, is less than one megawatt in  
10 alternating current capacity, is not part of a larger  
11 solar energy property, and is installed and placed in  
12 service in the State by a taxpayer during the taxable  
13 year:

14 (A) Thirty per cent of the basis for solar energy  
15 property placed in service after December 31,  
16 2012, and on or before December 31, 2013;

17 (B) Twenty five per cent of the basis for solar  
18 energy property placed in service after December  
19 31, 2013, and on or before December 31, 2015;

20 (C) Twenty per cent of the basis for solar energy  
21 property placed in service after December 31,  
22 2015, and on or before December 31, 2017; and



1            (D) Fifteen per cent of the basis for solar energy  
2                            property placed in service after December 31,  
3                            2017; or

4            (3) For each solar energy property that is used to  
5                            generate electricity and is one megawatt or larger in  
6                            alternating current capacity:

7                            (A) \_\_\_\_\_ ; or

8            ~~[-(2)-]~~ (4) For each ~~[wind powered]~~ wind energy ~~[system-]~~  
9                            property that is less than one megawatt in output and  
10                           is not part of a larger wind energy property: twenty  
11                           per cent of the ~~[actual cost or the cap amount~~  
12                           ~~determined in subsection (b), whichever is less,~~  
13                           basis or \$500,000, whichever is less.

14            ~~[provided that multiple]~~ Multiple owners of a single system  
15 shall be entitled to a single tax credit~~[+]~~, and ~~[provided~~  
16 ~~further that]~~ the tax credit shall be apportioned between the  
17 owners in proportion to their contribution to the cost of the  
18 ~~[system-]~~ property.

19            In the case of a partnership, S corporation, estate, or  
20 trust, the tax credit allowable is for every eligible renewable  
21 energy technology ~~[system]~~ property that is installed and placed  
22 in service in the State by the entity. The cost upon which the

1 tax credit is computed shall be determined at the entity level.  
2 Distribution and share of credit shall be determined pursuant to  
3 section 235-110.7(a).

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

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

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

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

14 ~~(C) \$250,000 per system for commercial 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 property; and~~  
6 ~~(3) For all wind powered energy systems, the cap amounts~~  
7 ~~shall be:~~  
8 ~~(A) \$1,500 per system for single family residential~~  
9 ~~property; provided that if all or a portion of~~  
10 ~~the system is used to fulfill the substitute~~  
11 ~~renewable energy technology requirement pursuant~~  
12 ~~to section 196 6.5(a)(3), the credit shall be~~  
13 ~~reduced by twenty per cent of the actual system~~  
14 ~~cost or \$1,500, whichever is less;~~  
15 ~~(B) \$200 per unit per system for multi family~~  
16 ~~residential property; and~~  
17 ~~(C) \$500,000 per system for commercial property.~~

18 ~~(e)]~~ (b) For the purposes of this section:

19 [~~"Actual cost" means costs related to the renewable energy~~  
20 ~~technology systems under subsection (a), including accessories~~  
21 ~~and installation, but not including the cost of consumer~~  
22 ~~incentive premiums unrelated to the operation of the system or~~



1 ~~offered with the sale of the system and costs for which another~~  
2 ~~credit is claimed under this chapter.~~

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

6 "Basis" means costs related to the energy property under  
7 subsection (a), including accessories, energy storage, and  
8 installation, but not including the cost of consumer incentive  
9 premiums unrelated to the operation of the energy property or  
10 offered with the sale of the energy property and costs for which  
11 another credit is claimed under this chapter. Any cost incurred  
12 and paid for the repair, construction, or installation and  
13 placing in service of solar or wind energy property shall not  
14 constitute a part of the basis for the purpose of this section.  
15 The basis used under this part shall be consistent with the use  
16 of basis in section 25D or section 48 of the Internal Revenue  
17 Code of 1986, as amended; provided that for the purposes of  
18 calculating the credit allowed under this chapter, the basis of  
19 the solar energy property or the wind energy property shall not  
20 be reduced by the amount of any federal tax credit or other  
21 federally subsidized energy financing received by the taxpayer.



1 "Placed in service" shall have the same meaning as in  
2 section 25D, 45, or section 48 of the Internal Revenue Code of  
3 1986, as amended.

4 "Property" shall have the same meaning as in section 25D,  
5 45, or section 48 of the Internal Revenue Code of 1986, as  
6 amended."

7 "Public sector agency" means any political subdivision,  
8 agency, or instrumentality of the State or of the federal  
9 government.

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

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

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

21 [~~d~~] (c) For taxable years beginning after December 31,  
22 2005, the dollar amount of any utility rebate shall be deducted



1 from the cost of the qualifying system and its installation  
2 before applying the state tax credit.

3       ~~[(e)]~~ (d) The director of taxation shall prepare any forms  
4 that may be necessary to claim a tax credit under this section,  
5 including forms identifying the technology type of each tax  
6 credit claimed under this section~~[, whether for solar or wind]~~.  
7 The director may also require the taxpayer to furnish reasonable  
8 information to ascertain the validity of the claim for credit  
9 made under this section and may adopt rules necessary to  
10 effectuate the purposes of this section pursuant to chapter 91.

11       ~~[(f)]~~ (e) If the tax credit under ~~[this section]~~  
12 subsections (a) (1), (a) (2), and (a) (4) exceeds the taxpayer's  
13 income tax liability, the excess of the credit over liability  
14 may be used as a credit against the taxpayer's income tax  
15 liability in subsequent years until exhausted, unless otherwise  
16 elected by the taxpayer pursuant to subsection (f) or (g) ~~[(e)~~  
17 ~~(h)]~~. All claims for the tax credit under this section,  
18 including amended claims, shall be filed on or before the end of  
19 the twelfth month following the close of the taxable year for  
20 which the credit may be claimed. Failure to comply with this  
21 subsection shall constitute a waiver of the right to claim the  
22 credit.





1        [~~g~~] (f) For solar energy [~~systems,~~] properties under  
2 subsections (a)(1) and (a)(2) or for any wind energy property  
3 under subsection (a)(4), a taxpayer may elect to reduce the  
4 eligible credit amount by thirty per cent and if this reduced  
5 amount exceeds the amount of income tax payment due from the  
6 taxpayer, the excess of the credit amount over payments due  
7 shall be refunded to the taxpayer; provided that tax credit  
8 amounts properly claimed by a taxpayer who has no income tax  
9 liability shall be paid to the taxpayer; and provided further  
10 that no refund on account of the tax credit allowed by this  
11 section shall be made for amounts less than \$1.

12        The election required by this subsection shall be made in a  
13 manner prescribed by the director on the taxpayer's return for  
14 the taxable year in which the system is installed and placed in  
15 service. A separate election may be made for each separate  
16 system that generates a credit. An election once made is  
17 irrevocable.

18        [~~h~~] (g) Notwithstanding subsection [~~g~~], (f), for any  
19 [~~renewable energy technology system,~~] solar energy property  
20 under subsections (a)(1) and (a)(2), or for any wind energy  
21 property under subsection (a)(4), an individual taxpayer may



1 elect to have any excess of the credit over payments due  
2 refunded to the taxpayer[7] without discount, if:

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

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

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

12 A husband and wife who do not file a joint tax return shall  
13 only be entitled to make this election to the extent that they  
14 would have been entitled to make the election had they filed a  
15 joint tax return.

16 The election required by this subsection shall be made in a  
17 manner prescribed by the director on the taxpayer's return for  
18 the taxable year in which the system is installed and placed in  
19 service. A separate election may be made for each separate  
20 system that generates a credit. An election once made is  
21 irrevocable.



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

7        (i) For solar energy properties under subsection (a)(3),  
8 if the tax credit exceeds the amount of income tax payment due  
9 from the taxpayer, the excess of the credit amount over payments  
10 due shall be refunded to the taxpayer; provided that the tax  
11 credit amounts properly claimed by a taxpayer who has no income  
12 liability shall be paid to the taxpayer; provided further that  
13 no refund on account of the tax credit allowed by this section  
14 shall be made for less than \$1.

15        (j) The tax credits provided for in this section shall be  
16 construed in accordance with Treasury Regulations and judicial  
17 interpretations of similar provisions in sections 25D, 45, and  
18 48 of the Internal Revenue Code of 1986, as amended.

19        (k) Notwithstanding the foregoing, and in lieu of the  
20 credits described above, an individual or corporate taxpayer not  
21 currently regulated by the public utilities commission that had  
22 by December 31, 2012, entered into an agreement with a public



1 sector agency pursuant to a public solicitation and procurement  
2 process for the sale of electrical energy from non-residential  
3 solar energy property with less than one megawatt of alternating  
4 current capacity may elect to receive tax credits for energy  
5 properties placed into service prior to January 1, 2014, on the  
6 same basis as if the energy property had been placed into  
7 service prior to January 1, 2013; provided that the taxpayer  
8 shall provide a copy of the agreement to the department of  
9 taxation.

10 (l) Taxpayers who have received letters from the  
11 department of taxation extending the department's letter rulings  
12 or determination letters to December 31, 2013, and have  
13 submitted the requested status update may qualify for the tax  
14 credits as they existed on December 31, 2012; provided that the  
15 energy property is placed in service on or before December 31,  
16 2013.

17 (m) An association of owners under chapters 514A, 514B,  
18 421I, or 421J may claim the credit allowed under this section in  
19 its own name for property or facilities placed in service and  
20 located on common areas.

21 (n) No credit under this section may be claimed by:



1       (1) Any federal, state, or local government or any  
2           political subdivision, agency, or instrumentality  
3           thereof;

4       (2) Any entity referred to in section 54(j)(4) of the  
5           Internal Revenue Code of 1986, as amended; or

6       (3) Any partnership or other pass-through entity that has  
7           as a partner or other holder of an equity or profit  
8           interest that is described in paragraph (1) or (2).

9       ~~[(j) To the extent feasible, using existing resources to~~  
10      ~~assist the energy efficiency policy review and evaluation, the~~  
11      ~~department shall assist with data collection on the following~~  
12      ~~for each taxable year:]~~   (o) The department of taxation and the  
13      department of business, economic development, and tourism shall  
14      collaborate to issue a joint report to the legislature annually  
15      no later than twenty days prior to the convening of each regular  
16      session on the following items for each previous taxable year:

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

20                   (A) Technology type; and

21                   (B) Taxpayer type (corporate and individual); ~~[and]~~



- 1           (2) The total cost of the tax credit to the State during  
2           the taxable year by:
- 3           (A) Technology type; [~~and~~]  
4           (B) Taxpayer type[-];  
5           (C) Tax credit type (investment or production); and  
6           (D) Refundability type (refundable or nonrefundable);  
7           and
- 8           (3) The estimated economic benefit that may be attributed  
9           to the renewable energy technologies tax credits,  
10           including
- 11           (A) The impact on the economy, including:
- 12                 (i) Economic stimulus;  
13                 (ii) Net flow of money into or out of the State;  
14                 (iii) General excise and income tax revenue  
15                         generated; and
- 16           (B) Jobs, including:
- 17                 (i) The number of jobs maintained;  
18                 (ii) The number of jobs created and number of  
19                         jobs lost; and  
20                 (iii) The average pay of jobs maintained, created,  
21                         and lost.



1       ~~[(k) This section shall apply to eligible renewable energy~~  
2 ~~technology systems that are installed and placed in service on~~  
3 ~~or after July 1, 2009.] "~~

4       SECTION 2. The department of business, economic  
5 development, and tourism shall commence a study no later than  
6 July 1, 2016, on the costs incurred and benefits gained, as well  
7 as the extent to which the tax credits under section 235-12.5,  
8 Hawaii Revised Statutes, have helped the State achieve its  
9 energy goals. In conducting this study, the department of  
10 business, economic development, and tourism shall consult with  
11 the department of taxation and industry trade groups and may  
12 consult with other stakeholders. The department of business,  
13 economic development, and tourism shall submit a report to the  
14 legislature no later than December 31, 2017. The report shall  
15 include at a minimum, the elements identified in section 235-  
16 12.5(o), Hawaii Revised Statutes; the results of its study; and  
17 recommendations on whether the various tax credits under section  
18 235-12.5, Hawaii Revised Statutes, should be continued,  
19 eliminated, or revised.

20       SECTION 3. If any provision of this Act, or the  
21 application thereof to any person or circumstance, is held  
22 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

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

6 SECTION 5. This Act, upon its approval, shall apply to  
7 taxable years beginning after December 31, 2012.





**Report Title:**

Renewable Energy Technology; Tax Credit

**Description:**

Amends the tax credit for renewable energy technologies.  
Applies to taxable years beginning after December 31, 2012.  
(HB497 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

