
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 placed
15 in service in the State by a taxpayer during the
16 taxable year: thirty-five per cent of the ~~[actual~~
17 ~~cost or the cap amount determined in subsection (b)],~~



1 ~~whichever is less; or]~~ basis up to the applicable cap
2 amount, which 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) For solar energy property that is not
8 competitively-bid solar energy property, and
9 which is placed in service after December 31,
10 2012, for the first ten years the solar energy
11 property is in service: 8 cents multiplied by the
12 number of kilowatt hours produced by the solar
13 energy property and:

14 (i) Sold by the taxpayer to an unrelated entity
15 during the taxable year; or

16 (ii) Used on-site to offset the site's demand for
17 electricity; or

18 (B) For competitively-bid solar energy property
19 placed in service after December 31, 2012, for
20 the first ten years the solar energy property is
21 in service: 4 cents multiplied by the number of



1 kilowatt hours produced by the solar energy
2 property and:

3 (i) Sold by the taxpayer to an unrelated entity
4 during the taxable year; or

5 (ii) Used on-site to offset the site's demand for
6 electricity; or

7 [~~2~~] (4) For each [wind-powered] wind energy [system-
8 twenty] property that is less than one megawatt in
9 output and is not part of a larger wind energy
10 property:

11 (A) Twenty per cent of the [actual cost or the cap
12 amount determined in subsection (b), whichever is
13 less; provided that multiple] basis; or

14 (B) \$500,000,
15 whichever is less.

16 Multiple owners of a single [system] property shall be entitled
17 to a single tax credit[7], and [provided further that] the tax
18 credit shall be apportioned between the owners in proportion to
19 their contribution to the cost of the [system-] property.

20 In the case of a partnership, S corporation, estate, or
21 trust, the tax credit allowable is for every eligible renewable
22 energy technology [system] property that is installed and placed



1 in service in the State by the entity. The cost upon which the
2 tax credit is computed shall be determined at the entity level.
3 Distribution and share of credit shall be determined pursuant to
4 section 235-110.7(a).

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

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

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

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

15 ~~(C) \$250,000 per system for commercial property;~~

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

18 ~~(A) \$5,000 per system for single family residential~~
19 ~~property; provided that if all or a portion of~~
20 ~~the system is used to fulfill the substitute~~
21 ~~renewable energy technology requirement pursuant~~
22 ~~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 "Competitively-bid solar energy property" means solar
2 energy property that is installed and placed in service pursuant
3 to a competitive bidding process:

4 (1) Required by the public utilities commission or
5 statute; and

6 (2) Conducted by or on behalf of an electric utility
7 regulated by the public utilities commission.

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

11 "Property" shall have the same meaning as in section 25D,
12 45, or 48 of the Internal Revenue Code.

13 "Public sector agency" means any political subdivision,
14 agency, or instrumentality of the State or of the federal
15 government.

16 "Renewable energy technology system" means a new system
17 that captures and converts a renewable source of energy, such as
18 solar or wind energy, into:

19 (1) A usable source of thermal or mechanical energy;

20 (2) Electricity; or

21 (3) Fuel.



1 "Solar or wind energy system" means any identifiable
2 facility, equipment, apparatus, or the like that converts solar
3 or wind energy to useful thermal or electrical energy for
4 heating, cooling, or reducing the use of other types of energy
5 that are dependent upon fossil fuel for their generation.

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

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

18 ~~[(f)]~~ (e) If the tax credit under ~~[this section]~~
19 subsection (a)(1), (a)(2), or (a)(4) exceeds the taxpayer's
20 income tax liability, the excess of the credit over liability
21 may be used as a credit against the taxpayer's income tax
22 liability in subsequent years until exhausted, unless otherwise



1 elected by the taxpayer pursuant to subsection (f) or (g) [~~e~~
2 ~~h~~]. All claims for the tax credit under this section,
3 including amended claims, shall be filed on or before the end of
4 the twelfth month following the close of the taxable year for
5 which the credit may be claimed. Failure to comply with this
6 subsection shall constitute a waiver of the right to claim the
7 credit.

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

19 The election required by this subsection shall be made in a
20 manner prescribed by the director on the taxpayer's return for
21 the taxable year in which the system is installed and placed in
22 service. A separate election may be made for each separate



1 system that generates a credit. An election once made is
2 irrevocable.

3 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~, (f), for any
4 ~~[renewable energy technology system]~~ solar energy property
5 under subsections (a)(1) or (a)(2), or for any wind energy
6 property under subsection (a)(4), an individual taxpayer may
7 elect to have any excess of the credit over payments due
8 refunded to the taxpayer~~[]~~ without discount, if:

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

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

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

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



1 The election required by this subsection shall be made in a
 2 manner prescribed by the director on the taxpayer's return for
 3 the taxable year in which the system is installed and placed in
 4 service. A separate election may be made for each separate
 5 system that generates a credit. An election once made is
 6 irrevocable.

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

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

- 17 ~~(1) The number of renewable energy technology systems that~~
- 18 ~~have qualified for a tax credit during the calendar~~
- 19 ~~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 ~~[(k) This section shall apply to eligible renewable energy~~
6 ~~technology systems that are installed and placed in service on~~
7 ~~or after July 1, 2009.]~~

8 (i) For solar energy properties under subsection (a) (3),
9 if the tax credit exceeds the taxpayer's income tax liability,
10 the excess of the credit over liability shall be refunded to the
11 taxpayer; provided that the tax credit amounts properly claimed
12 by a taxpayer who has no income liability shall be paid to the
13 taxpayer; and provided further that no refund on account of the
14 tax credit allowed by this section shall be made for less than
15 \$1.

16 (j) The tax credits provided for in this section shall be
17 construed in accordance with Treasury Regulations and judicial
18 interpretations of similar provisions in sections 25D, 45, and
19 48 of the Internal Revenue Code.

20 (k) Notwithstanding the foregoing, and in lieu of the
21 credits described above, an individual or corporate taxpayer not
22 currently regulated by the public utilities commission that had,



1 by December 31, 2012, entered into an agreement with a public
2 sector agency, pursuant to a public solicitation and procurement
3 process, for the sale of electrical energy from non-residential
4 solar energy property with less than one megawatt of alternating
5 current capacity may elect to receive tax credits for energy
6 properties placed into service prior to January 1, 2014, on the
7 same basis as if the energy property had been placed into
8 service prior to January 1, 2013; provided that the taxpayer
9 shall provide a copy of the agreement to the department of
10 taxation.

11 (l) Taxpayers who have received letters from the
12 department of taxation extending the department's letter rulings
13 or determination letters to December 31, 2013, and have
14 submitted the requested status update may qualify for the tax
15 credits as they existed on December 31, 2012; provided that the
16 energy property is placed in service on or before December 31,
17 2013.

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



1 (n) No credit under this section may be claimed by any
2 federal, state, or local government or any political
3 subdivision, agency, or instrumentality thereof.

4 (o) The department of taxation in collaboration with the
5 department of business, economic development, and tourism shall
6 issue a joint report to the legislature annually no later than
7 twenty days prior to the convening of each regular session on
8 the following items for each preceding taxable year:

9 (1) The number of renewable energy technology properties
10 that have qualified for a tax credit during the
11 calendar year by:

12 (A) Technology type; and

13 (B) Taxpayer type (corporate and individual);

14 (2) The total cost of the tax credit to the State during
15 the taxable year by:

16 (A) Technology type;

17 (B) Taxpayer type;

18 (C) Tax credit type (investment or production); and

19 (D) Refundability type (refundable or nonrefundable);

20 and



- 1 (3) The estimated economic benefit that may be attributed
- 2 to the renewable energy technologies tax credits,
- 3 including:
- 4 (A) The impact on the economy, including:
- 5 (i) Economic stimulus;
- 6 (ii) Net flow of money into or out of the State;
- 7 and
- 8 (iii) General excise and income tax revenue
- 9 generated; and
- 10 (B) Jobs, including:
- 11 (i) The number of jobs maintained;
- 12 (ii) The number of jobs created and number of
- 13 jobs lost; and
- 14 (iii) The average pay of jobs maintained, created,
- 15 and lost."

16 SECTION 2. The department of business, economic
17 development, and tourism shall commence a study no later than
18 July 1, 2016, on the costs incurred and benefits gained, as well
19 as the extent to which the tax credits under section 235-12.5,
20 Hawaii Revised Statutes, have helped the State achieve its
21 energy goals. In conducting this study, the department of
22 business, economic development, and tourism shall consult with



1 the department of taxation and industry trade groups and may
2 consult with other stakeholders. The department of business,
3 economic development, and tourism shall submit a report to the
4 legislature no later than December 31, 2017. The report shall
5 include at a minimum:

- 6 (1) The elements identified in section 235-12.5(o), Hawaii
7 Revised Statutes;
- 8 (2) The results of its study; and
- 9 (3) Recommendations on whether the various tax credits
10 under section 235-12.5, Hawaii Revised Statutes,
11 should be continued, eliminated, or revised.

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

14 SECTION 4. This Act shall take effect on July 1, 2030 and
15 shall apply to 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.
Effective July 1, 2030. (HB497 HD3)

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

