

JAN 17 2013

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 **PART I**

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

4 "**§235-12.5 Renewable energy technologies; income tax**
5 **credit.** (a) When the requirements of subsection ~~[(d)]~~ (c) are
6 met, each individual or corporate taxpayer that files an
7 individual or corporate net income tax return for a taxable year
8 may claim a tax credit under this section against the Hawaii
9 state individual or corporate net income tax. The tax credit
10 may be claimed for ~~[every]~~ eligible ~~[renewable]~~ energy
11 ~~[technology system]~~ property that is installed and placed in
12 service in the State by a taxpayer during the taxable year. The
13 tax credit may be claimed as follows:

14 (1) For ~~[each]~~ solar energy ~~[system: thirty five per cent~~
15 ~~of the actual cost or the cap amount determined in~~
16 ~~subsection (b), whichever is less; or~~

17 ~~(2) For each wind powered energy system: twenty per cent~~
18 ~~of the actual cost or the cap amount determined in~~



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1 ~~subsection (b), whichever is less;]~~ property that
2 produces electricity for residential use:

3 (A) One tax credit may be taken for each dwelling at
4 thirty per cent of the basis of the solar energy
5 property installed and placed in service after
6 December 31, 2012, but prior to January 1, 2014,
7 with a cap of \$12,500; or

8 (B) One tax credit may be taken for each dwelling at
9 twenty-five per cent of the basis of the solar
10 energy property installed and placed in service
11 after December 31, 2013, but prior to January 1,
12 2015, with a cap of \$12,500; or

13 (C) One tax credit may be taken for each dwelling at
14 twenty per cent of the basis of the solar energy
15 property installed and placed in service on or
16 after January 1, 2015, with a cap of \$12,500;

17 (2) For solar energy property that heats water for
18 residential use: one tax credit may be taken for each
19 dwelling at thirty-five per cent of the basis of the
20 solar energy property, with a cap of \$2,500;

21 (3) For solar energy property that produces electricity
22 for commercial non-utility scale:



- 1 (A) The tax credit may be taken as thirty per cent of
2 the basis of the solar energy property installed
3 and placed in service after December 31, 2012,
4 but prior to January 1, 2014, with a cap of
5 \$500,000; or
- 6 (B) The tax credit may be taken as twenty-five per
7 cent of the basis of the solar energy property
8 installed and placed in service after
9 December 31, 2013, but prior to January 1, 2015,
10 with a cap of \$500,000; or
- 11 (C) The tax credit may be taken as twenty per cent of
12 the basis of the solar energy property installed
13 and placed in service on or after January 1,
14 2015, with a cap of \$500,000;
- 15 (4) For solar energy property that heats water for
16 commercial non-utility scale: the tax credit may be
17 taken as thirty-five per cent of the basis of the
18 energy property, with a cap of \$250,000;
- 19 (5) For utility scale solar energy property installed and
20 placed into service after December 31, 2012: 8 cents
21 per kilowatt hour produced and sold during the first
22 one hundred twenty months of the property's operation;



1 (6) For wind energy property that produces electricity for
2 use in the primary residence of the taxpayer claiming
3 the credit: twenty per cent of the basis of wind
4 energy property installed and placed in service;

5 (7) For other non-utility scale wind energy property that
6 produces electricity: twenty per cent of the basis of
7 the wind energy property installed and placed into
8 service; or

9 (8) For utility scale wind energy property installed and
10 placed into service after December 31, 2012: 1.5
11 cents per kilowatt hour produced and sold during the
12 first one hundred twenty months of the property's
13 operation;

14 provided that multiple owners of [~~a single system~~] energy
15 property 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.~~] basis of the energy property.

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

1 ~~[est]~~ basis upon which the tax credit is computed shall be
2 determined at the entity level. Distribution and share of
3 credit shall be determined pursuant to section ~~[235-110.7(a).]~~
4 235-110.7.

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~~



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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"]~~ "Basis" means costs related to the
20 ~~[renewable] energy [technology systems] property~~ under
21 subsection (a), including accessories and installation, but ~~[not~~
22 ~~including]~~ does not include the cost of consumer incentive



1 premiums unrelated to the operation of the [system] energy
2 property or offered with the sale of the [system] energy
3 property and costs for which another credit is claimed under
4 this chapter. Any cost incurred and paid for the repair,
5 construction, or reconstruction of a structure in conjunction
6 with the installation and placing in service of solar or wind
7 energy property shall not constitute a part of the basis for the
8 purpose of this section.

9 "Commercial non-utility scale" means energy produced for a
10 business, which does not include residences that are leased or
11 rented, and which is not interconnected to a utility grid at
12 sub-transmission or transmission voltage.

13 ~~["Household use" means any use to which heated water is~~
14 ~~commonly put in a residential setting, including commercial~~
15 ~~application of those uses.~~

16 ~~"Renewable energy technology system"]~~ "Energy property"
17 means [a] new [system] tangible property that captures and
18 converts a renewable source of energy [~~such as solar or wind~~
19 ~~energy,~~] into:

- 20 (1) A usable source of thermal or mechanical energy;
- 21 (2) Electricity; or
- 22 (3) Fuel.



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

8 "Residential use" means energy produced for a dwelling and
9 shall include primary residences, rentals, and leased property
10 so long as the property is used for a home or dwelling.

11 "Utility scale" means solar or wind energy property that
12 is:

- 13 (1) Designed, installed, and placed into service to
14 produce electricity;
- 15 (2) Interconnected to a utility grid at sub-transmission
16 or transmission voltage; and
- 17 (3) Subject to a feed-in tariff or power purchase
18 agreement approved by the public utilities commission.

19 ~~[(d)]~~ (c) For taxable years beginning after December 31,
20 2005, the dollar amount of any utility rebate shall be deducted
21 from the cost of the qualifying ~~[system]~~ energy property and its
22 installation before applying the state tax credit.



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

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

20 ~~[(g)]~~ (f) For residential and non-utility scale solar
21 energy ~~[systems,]~~ property, a taxpayer may elect to reduce the
22 eligible credit amount by thirty per cent and if this reduced



1 amount exceeds the amount of income tax payment due from the
2 taxpayer, the excess of the credit amount over payments due
3 shall be refunded to the taxpayer; provided that tax credit
4 amounts properly claimed by a taxpayer who has no income tax
5 liability shall be paid to the taxpayer; and provided further
6 that no refund on account of the tax credit allowed by this
7 section shall be made for amounts less than \$1.

8 The election required by this subsection shall be made in a
9 manner prescribed by the director on the taxpayer's return for
10 the taxable year in which the ~~[system]~~ solar energy property is
11 installed and placed in service. ~~[A separate election may be
12 made for each separate system that generates a credit.]~~ An
13 election once made is irrevocable.

14 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~, (f), for any
15 ~~[renewable] energy [technology system,]~~ property, an individual
16 taxpayer may elect to have any excess of the credit over
17 payments due refunded to the taxpayer, if:

- 18 (1) All of the taxpayer's income is exempt from taxation
19 under section 235-7(a)(2) or (3); or
20 (2) The taxpayer's adjusted gross income is \$20,000 or
21 less (or \$40,000 or less if filing a tax return as
22 married filing jointly);



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

5 A husband and wife who do not file a joint tax return shall
6 only be entitled to make this election to the extent that they
7 would have been entitled to make the election had they filed a
8 joint tax return.

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

15 (h) For utility scale solar energy and wind energy
16 property, a taxpayer may elect to have any excess of the credit
17 over payments due refunded to the taxpayer.

18 (i) No taxpayer shall be allowed a credit under this
19 section for the portion of the ~~[renewable]~~ energy ~~[technology~~
20 ~~system]~~ property required by section 196-6.5 that is installed
21 and placed in service on any newly constructed single-family



1 residential property authorized by a building permit issued on
2 or after January 1, 2010.

3 (j) ~~[To the extent feasible, using existing resources to]~~
4 To assist the energy-efficiency policy review and evaluation,
5 the department shall assist with data collection on the
6 following for each taxable year:

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

10 (A) Technology type; and

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

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

14 (A) Technology type; and

15 (B) Taxpayer type.

16 (k) For all energy property to which subsection (a) (3) or
17 (a) (6) apply, each taxpayer, for each solar energy property or
18 wind energy property, shall apply for and receive tax credit
19 certification from the department of business, economic
20 development, and tourism prior to claiming the credit.

21 To qualify for certification:



1 (1) A taxpayer under a feed-in tariff shall provide the
2 department of business, economic development, and
3 tourism with a dated copy of utility interconnection
4 costs and requirements estimate from the applicable
5 electric utility company; and

6 (2) A taxpayer under a power purchase agreement shall
7 provide the department of business, economic
8 development, and tourism with documentation from the
9 public utilities commission demonstrating the
10 commission's approval of the power purchase agreement.

11 Upon receiving and reviewing the information required under
12 paragraphs (1) and (2), the department of business, economic
13 development, and tourism shall determine if the taxpayer
14 qualifies for certification for the credit. In no case shall
15 the department of business, economic development, and tourism
16 qualify any taxpayer for certification after December 31, 2018.

17 (1) The department of business, economic development, and
18 tourism shall:

19 (1) Verify the number of kilowatt hours produced and sold
20 by each taxpayer during each calendar year;



- 1 (2) Total all tax credits that the department of business,
2 economic development, and tourism certifies pursuant
3 to this section;
- 4 (3) Certify the total amount of the tax credit for each
5 taxable year and the cumulative amount of the tax
6 credit during the credit period; and
- 7 (4) Carry forward any certified tax credits in excess of
8 the applicable aggregate cap amount for each calendar
9 year.

10 In January of each year, the department of business,
11 economic development, and tourism shall determine the order that
12 credits shall be certified by contacting taxpayers qualified
13 under subsection (k) in the order of the date the taxpayers
14 received qualified status. A taxpayer that elects to claim a
15 credit under subsection (a)(3) or (a)(6) shall provide the
16 department of business, economic development, and tourism with
17 reports from the electric utility company demonstrating the
18 number of kilowatt hours produced and sold by the taxpayer
19 during the calendar year. A taxpayer shall not cease to be
20 qualified under subsection (k) solely for electing not to claim
21 a credit under subsection (a)(3) or (a)(6).



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1 Upon each certification, the department of business,
 2 economic development, and tourism shall issue a certificate to
 3 the taxpayer. The taxpayer shall file the certificate with the
 4 taxpayer's tax return with the department of taxation in order
 5 to claim the tax credit.

6 Notwithstanding the department of business, economic
 7 development, and tourism's certification authority under this
 8 section, the director of taxation may audit and adjust the
 9 certification to conform to the facts.

10 If in any year, the annual amount of certified credits for
 11 solar energy properties reaches the applicable aggregate cap
 12 amount, the department of business, economic development, and
 13 tourism shall notify the department of taxation and carry
 14 forward all certified tax credits in excess of the applicable
 15 aggregate cap amount to the following year. The aggregate cap
 16 amount for solar energy property shall be determined as follows:

<u>Calendar Year</u>	<u>Aggregate Cap Amount</u>
18 <u>2013</u>	<u>\$6,000,000</u>
19 <u>2014</u>	<u>\$9,000,000</u>
20 <u>2015</u>	<u>\$12,000,000</u>
21 <u>2016 and thereafter</u>	<u>\$13,500,000</u>



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1 In no instance shall the total amount of certified credits that
 2 are claimed for solar energy property in any taxable year exceed
 3 the applicable aggregate cap amount. Notwithstanding any other
 4 law to the contrary, this information shall be available for
 5 public inspection and dissemination under chapter 92F.

6 If in any year, the annual amount of certified credits for
 7 wind energy properties reaches the applicable aggregate cap
 8 amount, the department of business, economic development, and
 9 tourism shall notify the department of taxation and carry
 10 forward all certified tax credits in excess of the applicable
 11 aggregate cap amount to the following year. The aggregate cap
 12 amount for wind energy property shall be determined as follows:

<u>Calendar Year</u>	<u>Aggregate Cap Amount</u>
<u>2013</u>	<u>\$2,000,000</u>
<u>2014</u>	<u>\$4,000,000</u>
<u>2015</u>	<u>\$6,000,000</u>
<u>2016 and thereafter</u>	<u>\$10,000,000</u>

18 In no instance shall the total amount of certified credits that
 19 are claimed for wind energy property in any taxable year exceed
 20 the applicable aggregate cap amount. Notwithstanding any other
 21 law to the contrary, this information shall be available for
 22 public inspection and dissemination under chapter 92F.




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1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2012.

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Mike Gubbard", is written over a horizontal line. The signature is cursive and extends above and below the line.

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Report Title:

Renewable Energy Technology; Tax Credit

Description:

Amends the renewable energy technologies income tax credit to improve consistency with the Internal Revenue Code, require tax credits to be certified by DBEDT, establish an aggregate tax cap, and specify that the tax credit applies to energy properties placed in service from 1/1/2013 through 12/31/2018. Authorizes independent power producers not currently regulated by the public utilities commission that have submitted an agreement with an electric utility company for approval by the public utilities commission by 3/31/2013 to receive tax credits authorized in calendar year 2012 for energy properties placed into service after 12/31/2012, as part of the agreement.

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

