
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 exclusively 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 is determined as follows:

3 (A) \$2,250 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 before January 1, 2014;

17 (B) Twenty-five per cent of the basis for solar
18 energy property placed in service after
19 December 31, 2013, and before January 1, 2016;

20 (C) Twenty per cent of the basis for solar energy
21 property placed in service after December 31,
22 2015, and before January 1, 2018; 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: four cents per
7 kilowatt-hour sold for the first one hundred twenty
8 months of operation for solar energy properties of one
9 megawatt or larger in alternating current capacity;
10 provided that a taxpayer with an energy property of
11 one megawatt or larger in alternating current capacity
12 and can show evidence that the taxpayer either has a
13 signed power purchase agreement, had been in
14 negotiations with a utility for a power purchase
15 agreement, has a utility conducting an interconnection
16 requirement study, or is in the feed-in tariff active
17 queue, on or before December 31, 2012, shall get 8
18 cents per kilowatt-hour sold for the first one hundred
19 twenty months of operation.

20 [(-2)] (4) For each [wind-powered] wind energy [system:]
21 property that is less than one megawatt in output and
22 is not part of a larger wind energy property: twenty



1 per cent of the ~~[actual cost or the cap amount~~
2 ~~determined in subsection (b), whichever is less,~~
3 ~~provided that multiple]~~ basis or \$500,000, whichever
4 is less.

5 Multiple owners of a single ~~[system]~~ property shall be entitled
6 to a single tax credit~~[+]~~, and ~~[provided further that]~~ the tax
7 credit shall be apportioned between the owners in proportion to
8 their contribution to the cost of the ~~[system.]~~ property.

9 In the case of a partnership, S corporation, estate, or
10 trust, the tax credit allowable is for every eligible renewable
11 energy technology ~~[system]~~ property that is installed and placed
12 in service in the State by the entity. The cost upon which the
13 tax credit is computed shall be determined at the entity level.
14 Distribution and share of credit shall be determined pursuant to
15 section ~~[235-110.7(a).]~~ section 704(b) of the Internal Revenue
16 Code.

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

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



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

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

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

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

8 ~~(A) \$5,000 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 thirty five per cent of the actual~~
14 ~~system cost or \$2,250, whichever is less;~~

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

17 ~~(C) \$500,000 per system for commercial property; and~~

18 ~~(3) For all wind powered energy systems, the cap amounts~~
19 ~~shall be:~~

20 ~~(A) \$1,500 per system for single family residential~~
21 ~~property; provided that if all or a portion of~~
22 ~~the system is used to fulfill the substitute~~



1 ~~renewable energy technology requirement pursuant~~
2 ~~to section 196-6.5(a)(3), the credit shall be~~
3 ~~reduced by twenty per cent of the actual system~~
4 ~~cost or \$1,500, whichever is less;~~

5 ~~(B) \$200 per unit per system for multi-family~~
6 ~~residential property; and~~

7 ~~C) \$500,000 per system for commercial property.~~

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

9 ~~["Actual cost" means costs related to the renewable energy~~
10 ~~technology systems under subsection (a), including accessories~~
11 ~~and installation, but not including the cost of consumer~~
12 ~~incentive premiums unrelated to the operation of the system or~~
13 ~~offered with the sale of the system and costs for which another~~
14 ~~credit is claimed under this chapter.~~

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

18 ~~"Basis" means costs related to the energy property under~~
19 ~~subsection (a), including accessories, energy storage, and~~
20 ~~installation, but does not include the cost of consumer~~
21 ~~incentive premiums unrelated to the operation of the energy~~
22 ~~property or offered with the sale of the energy property and~~



1 costs for which another credit is claimed under this chapter.
2 Any cost incurred and paid for the repair, construction, or
3 reconstruction of a structure in conjunction with the
4 installation and placing in service of solar or wind energy
5 property shall not constitute a part of the basis for the purpose
6 of this section. The basis used under this chapter shall be
7 consistent with the use of basis in section 25D or section 48 of
8 the Internal Revenue Code; provided that, for the purposes of
9 calculating the credit allowed under this chapter, the basis of
10 the solar energy property or the wind energy property shall not
11 be reduced by the amount of any federal tax credit or other
12 federally subsidized energy financing received by the taxpayer.

13 "Competitive bid solar energy property" means a solar
14 energy property installed and placed in service pursuant to a
15 competitive bidding process, required by the public utilities
16 commission or statute, and conducted by or on behalf of an
17 electric utility regulated by the public utilities commission.

18 "Placed in service" has the same meaning as in Treasury
19 Regulation 1.167(a)-11(e)(1).

20 "Property" has the same meaning as in section 25D, 45, or
21 48 of the Internal Revenue Code.



1 "Public sector agency" means any political subdivision,
2 agency, or instrumentality of the State or of the federal
3 government.

4 "Renewable energy technology system" means a new system
5 that captures and converts a renewable source of energy, such as
6 solar or wind energy, into:

- 7 (1) A usable source of thermal or mechanical energy;
8 (2) Electricity; or
9 (3) Fuel.

10 "Solar or wind energy [~~system~~] property" means any
11 identifiable facility, equipment, apparatus, or the like that
12 converts solar or wind energy to useful thermal or electrical
13 energy for heating, cooling, or reducing the use of other types
14 of energy that are dependent upon fossil fuel for their
15 generation.

16 [~~(a)~~] (c) For taxable years beginning after December 31,
17 2005, the dollar amount of any utility rebate shall be deducted
18 from the [~~cost~~] basis of the qualifying system and its
19 installation before applying the state tax credit.

20 [~~(e)~~] (d) The director of taxation shall prepare any forms
21 that may be necessary to claim a tax credit under this section,
22 including forms identifying the technology type of each tax



1 credit claimed under this section [~~, whether for solar or wind~~].
2 The director may also require the taxpayer to furnish reasonable
3 information to ascertain the validity of the claim for credit
4 made under this section and may adopt rules necessary to
5 effectuate the purposes of this section pursuant to chapter 91.

6 [~~(f)~~] (e) If the tax credit under [~~this section~~]
7 subsection (a) (1), (2), and (4) exceeds the taxpayer's income
8 tax liability, the excess of the credit over liability may be
9 used as a credit against the taxpayer's income tax liability in
10 subsequent years until exhausted, unless otherwise elected by
11 the taxpayer pursuant to subsection (f) or (g) [~~or (h)~~]. All
12 claims for the tax credit under this section, including amended
13 claims, 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 this subsection shall
16 constitute a waiver of the right to claim the credit.

17 [~~(g)~~] (f) For solar energy [~~systems,~~] properties under
18 subsection (a) (1) and (2) or for any wind energy property under
19 subsection (a) (4), a taxpayer may elect to reduce the eligible
20 credit amount by thirty per cent and if this reduced amount
21 exceeds the amount of income tax payment due from the taxpayer,
22 the excess of the credit amount over payments due shall be



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

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

12 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~, (f), for any
13 ~~[renewable energy technology system,]~~ solar energy property
14 under subsection (a) (1) and (2) or for any wind energy property
15 under subsection (a) (4), an individual taxpayer may elect to
16 have any excess of the credit over payments due refunded to the
17 taxpayer~~[]~~ without discount, 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 is installed and placed in
12 service. A separate election may be made for each separate
13 system that generates a credit. An election once made is
14 irrevocable.

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

21 ~~[(j)] To the extent feasible, using existing resources to~~
22 ~~assist the energy efficiency policy review and evaluation, the~~



1 ~~department shall assist with data collection on the following~~
2 ~~for each taxable year.]~~

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

11 (j) The tax credits provided for in this section shall be
12 construed in accordance with Treasury Regulations and judicial
13 interpretations of similar provisions in sections 25D, 45, and
14 48 of the Internal Revenue Code.

15 (k) Notwithstanding the foregoing, and in lieu of the
16 credits described above, an individual or corporate taxpayer not
17 currently regulated by the public utilities commission that had
18 by December 31, 2012, entered into an agreement with a public
19 sector agency pursuant to a public solicitation and procurement
20 process for the sale of electrical energy from non-residential
21 solar energy property with less than one megawatt of alternating
22 current capacity shall be allowed to elect to receive tax



1 credits for energy properties placed into service prior to
2 January 1, 2014, on the same basis as if the energy property had
3 been placed into service prior to January 1, 2013; provided that
4 the taxpayer shall provide a copy of the agreement to the
5 department of taxation.

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

13 (m) An association of owners under chapter 421I, 421J,
14 514A, or 514B may claim the credit allowed under this section in
15 its own name for property or facilities placed in service and
16 located on common areas.

17 (n) No credit under this section shall be allowed to:

18 (1) Any federal, state, or local government or any
19 political subdivision, agency, or instrumentality
20 thereof;

21 (2) Any entity referred to in section 54(j)(4) of the
22 Internal Revenue Code; or



1 (3) Any partnership or other pass-thru entity that has as
2 a partner or other holder of an equity or profits
3 interest that is described in paragraph (1) or (2).

4 (o) The department of taxation and the department of
5 business, economic development, and tourism shall collaborate to
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 for each previous taxable year:

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

12 (A) Technology type; and

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

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

16 (A) Technology type; [~~and~~]

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
2 attributable to the renewable energy tax credits,
3 including:
- 4 (A) Impact on the economy, including:
- 5 (i) Economic boost;
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) Number of jobs maintained;
12 (ii) Number of jobs created and the number of
13 jobs lost; and
14 (iii) Average pay.
- 15 (p) The department of business, economic development, and
16 tourism shall commence a study no later than July 1, 2016, on
17 the costs incurred and benefits generated by this section, as
18 well as the extent to which the tax credits under this section
19 has helped the State to achieve its energy goals. In conducting
20 this study, the department of business, economic development,
21 and tourism shall consult with the department of taxation and
22 industry trade groups and may consult with other stakeholders.



1 The department of business, economic development, and tourism
2 shall issue a report to the legislature no later than
3 December 31, 2017. This report to the legislature shall
4 include, at a minimum, the elements in subsection (o) and the
5 results of its study and shall include recommendations on
6 whether the various tax credits under this section should be
7 continued, eliminated or revised.

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

11 SECTION 2. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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

21



Report Title:

Renewable Energy; Solar Energy Property; Tax Credit

Description:

Establishes tax credits for solar energy property, wind energy property, competitive bid solar energy property, and competitive bid wind energy property. Requires the department of taxation and department of business, economic development, and tourism to report tax credits claimed under section 235-12.5, Hawaii Revised Statutes. (SD1)

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