

JAN 27 2016

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. Section 196-6.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§196-6.5 Solar water heater system required for new
4 single-family residential construction. (a) On or after
5 January 1, 2010, no building permit shall be issued for a new
6 single-family dwelling that does not include a solar water
7 heater system that meets the standards established pursuant to
8 section 269-44, unless the coordinator approves a variance. A
9 variance application shall only be accepted if submitted by an
10 architect or mechanical engineer licensed under chapter 464, who
11 attests that:

- 12 (1) Installation is impracticable due to poor solar
13 resource;
- 14 (2) Installation is cost-prohibitive based upon a life
15 cycle cost-benefit analysis that incorporates the
16 average residential utility bill and the cost of the



1 new solar water heater system with a life cycle that
2 does not exceed fifteen years;

3 (3) A renewable energy technology system[~~as defined in~~
4 ~~section 235-12.5,~~] is substituted for use as the
5 primary energy source for heating water; or

6 (4) A demand water heater device approved by Underwriters
7 Laboratories, Inc., is installed; provided that at
8 least one other gas appliance is installed in the
9 dwelling. For the purposes of this paragraph, "demand
10 water heater" means a gas-tankless instantaneous water
11 heater that provides hot water only as it is needed.

12 (b) A request for a variance shall be submitted to the
13 coordinator on an application prescribed by the coordinator and
14 shall include a description of the location of the property and
15 justification for the approval of a variance using the criteria
16 established in subsection (a). A variance shall be deemed
17 approved if not denied within thirty working days after receipt
18 of the variance application. The coordinator shall publicize:

19 (1) All applications for a variance within seven days
20 after receipt of the variance application; and



1 (2) The disposition of all applications for a variance
2 within seven days of the determination of the variance
3 application.

4 (c) The director of business, economic development, and
5 tourism may adopt rules pursuant to chapter 91 to impose and
6 collect fees to cover the costs of administering variances under
7 this section. The fees, if any, shall be deposited into the
8 energy security special fund established under section 201-12.8.

9 (d) Nothing in this section shall preclude any county from
10 establishing procedures and standards required to implement this
11 section.

12 (e) Nothing in this section shall preclude participation
13 in any utility demand-side management program or public benefits
14 fee program under part VII of chapter 269.

15 (f) As used in this section, "renewable energy technology
16 system" means a new system that captures and converts a
17 renewable source of energy, such as solar or wind energy, into:

- 18 (1) A usable source of thermal or mechanical energy;
- 19 (2) Electricity; or
- 20 (3) Fuel."

1 SECTION 2. 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 first
15 placed in service in the State by a taxpayer during
16 the taxable year: thirty-five per cent of the~~[actual~~
17 ~~cost or the cap amount determined in subsection (b),~~
18 ~~whichever is less; or]~~ basis up to the applicable cap
19 amount, which is determined as follows:

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



- 1 (B) \$500 per unit per property for multi-family
- 2 residential property; and
- 3 (C) \$250,000 per property for commercial property;
- 4 (2) For each solar energy property that is used primarily
- 5 to generate electricity, and is installed and first
- 6 placed in service in the State by a taxpayer during
- 7 the taxable year:
- 8 (A) Twenty-five per cent of the basis for solar
- 9 energy property first placed in service after
- 10 December 31, 2015, and before January 1, 2017;
- 11 (B) Twenty per cent of the basis for solar energy
- 12 property first placed in service after
- 13 December 31, 2016; and before January 1, 2018;
- 14 and
- 15 (C) Fifteen per cent of the basis for solar energy
- 16 property first placed in service after
- 17 December 31, 2017; and
- 18 ~~[(2)]~~ (3) For each ~~[wind-powered]~~ wind energy ~~[system]~~
- 19 property: twenty per cent of the ~~[actual cost or the~~
- 20 ~~cap amount determined in subsection (b)],~~ basis or
- 21 \$ _____, whichever is less[+]



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

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

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

- 16 ~~(1) If the primary purpose of the solar energy system is~~
 17 ~~to use energy from the sun to heat water for household~~
 18 ~~use, then the cap amounts shall be:~~
- 19 ~~(A) \$2,250 per system for single family residential~~
 20 ~~property;~~



S.B. NO. 2738

- 1 ~~(B) \$350 per unit per system for multi-family~~
2 ~~residential property; and~~
- 3 ~~(C) \$250,000 per system for commercial property;~~
- 4 ~~(2) For all other solar energy systems, the cap amounts~~
5 ~~shall be:~~
- 6 ~~(A) \$5,000 per system for single-family residential~~
7 ~~property; provided that if all or a portion of~~
8 ~~the system is used to fulfill the substitute~~
9 ~~renewable energy technology requirement pursuant~~
10 ~~to section 196-6.5(a)(3), the credit shall be~~
11 ~~reduced by thirty five per cent of the actual~~
12 ~~system cost or \$2,250, whichever is less;~~
- 13 ~~(B) \$350 per unit per system for multi-family~~
14 ~~residential property; and~~
- 15 ~~(C) \$500,000 per system for commercial property; and~~
- 16 ~~(3) For all wind-powered energy systems, the cap amounts~~
17 ~~shall be:~~
- 18 ~~(A) \$1,500 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~~



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

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

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

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

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

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

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

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

21 ~~(2) Electricity; or~~



1 ~~(3) Fuel.~~

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

7 "Basis" means costs related to the solar or wind energy
8 property under subsection (a), including accessories, energy
9 storage, and installation, but does not include the cost of
10 consumer incentive premiums unrelated to the operation of the
11 energy property or offered with the sale of the energy property
12 and costs for which another credit is claimed under this
13 chapter. Any cost incurred and paid for the repair,
14 construction, or reconstruction of a structure in conjunction
15 with the installation and placing in service of solar or wind
16 energy property, such as the re-roofing of single-family
17 residential property, multi-family residential property, or
18 commercial property, shall not constitute a part of the basis for
19 the purpose of this section; provided that costs incurred for the
20 physical support of the solar or wind energy property, such as
21 racking and mounting equipment and costs incurred to seal or



1 otherwise return a roof to its pre-installation condition shall
2 constitute part of the basis for the purposes of this section.

3 The basis used under this section shall be consistent with
4 the use of basis in section 25D or section 48 of the Internal
5 Revenue Code.

6 "First placed in service" has the same meaning as in
7 Treasury Regulation 1.167(a)-11(e)(1).

8 "Property" means equipment that uses solar or wind energy
9 to generate electricity, the construction, reconstruction, or
10 erection of which is completed by the taxpayer, or which is
11 acquired by the taxpayer if the original use of the property
12 commences with the taxpayer.

13 [~~d~~] (c) For taxable years beginning after December 31,
14 2005, the dollar amount of any utility rebate shall be deducted
15 from the [~~cost~~] basis of the qualifying [~~system~~] property and
16 its installation before applying the state tax credit.

17 [~~e~~] (d) The director of taxation shall prepare any forms
18 that may be necessary to claim a tax credit under this section,
19 including forms identifying the technology type of each tax
20 credit claimed under this section[~~, whether for solar or wind~~].
21 The director may also require the taxpayer to furnish reasonable



1 information to ascertain the validity of the claim for credit
2 made under this section and may adopt rules necessary to
3 effectuate the purposes of this section pursuant to chapter 91.

4 ~~[(f)]~~ (e) If the tax credit under ~~[this section]~~
5 subsection (a)(1), (2), and (3) exceeds the taxpayer's income
6 tax liability, the excess of the credit over liability may be
7 used as a credit against the taxpayer's income tax liability in
8 subsequent years until exhausted, unless otherwise elected by
9 the taxpayer pursuant to subsection (f) or (g) ~~[or (h)]~~. All
10 claims for the tax credit under this section, including amended
11 claims, shall be filed on or before the end of the twelfth month
12 following the close of the taxable year for which the credit may
13 be claimed. Failure to comply with this subsection shall
14 constitute a waiver of the right to claim the credit.

15 ~~[(g)]~~ (f) For solar energy ~~[systems]~~ properties under
16 subsection (a)(1) and (2) or for any wind energy property under
17 subsection (a)(3), a taxpayer may elect to reduce the eligible
18 credit amount by thirty per cent and if this reduced amount
19 exceeds the amount of income tax payment due from the taxpayer,
20 the excess of the credit amount over payments due shall be
21 refunded to the taxpayer; provided that tax credit amounts



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

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

11 ~~(h)] (g) [Notwithstanding subsection (g), for any~~
12 ~~renewable energy technology system, an] An individual taxpayer~~
13 may elect to have any excess of the credit over payments due
14 refunded to the taxpayer~~[7]~~ without discount if:

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

20 provided that tax credits properly claimed by a taxpayer who has
21 no income tax liability shall be paid to the taxpayer; and



1 ~~[provided further that]~~ no refund on account of the tax credit
2 allowed by this section shall be made for amounts less than \$1.

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

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

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

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



S.B. NO. 2738

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

3 (i) The tax credit provided for in this section shall be
4 construed in accordance with Treasury Regulations and judicial
5 interpretations of similar provisions in sections 25D, 45, and
6 48 of the Internal Revenue Code.

7 (j) An association of owners under chapter 421I, 421J,
8 514A, or 514B may claim the credit allowed under this section in
9 its own name for property or facilities placed in service and
10 located on common areas.

11 (k) No credit under this section shall be allowed to any
12 federal, state, or local government or any political
13 subdivision, agency, or instrumentality thereof.

14 (l) The department of taxation, in collaboration with the
15 department of business, economic development, and tourism, shall
16 submit a joint report to the legislature annually no later than
17 twenty days prior to the convening of each regular session on
18 the following for the preceding taxable year:

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



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



1 (ii) Number of jobs created and number of jobs
2 lost; and

3 (iii) Average pay.

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

7 (m) The department of business, economic development, and
8 tourism shall commence a study no later than July 1, 2017, on
9 the costs incurred and benefits generated by this section, as
10 well as the extent to which the tax credit under this section
11 has helped the State to achieve its energy goals. In conducting
12 this study, the department of business, economic development,
13 and tourism shall consult with the department of taxation and
14 industry trade groups and may consult with other stakeholders.
15 The department of business, economic development, and tourism
16 shall submit a report to the legislature no later than
17 December 31, 2018. This report to the legislature shall
18 include, at a minimum, the following:

- 19 (1) The elements in subsection (1);
20 (2) The results of its study; and



1 (3) Recommendations on whether the tax credit under this
 2 section should be wholly or partially continued,
 3 eliminated, or revised."

4 SECTION 3. If any provision of this Act, or the
 5 application thereof to any person or circumstance, is held
 6 invalid, the invalidity does not affect other provisions or
 7 applications of the Act that can be given effect without the
 8 invalid provision or application, and to this end the provisions
 9 of this Act are severable.

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

12 SECTION 5. This Act, upon its approval, shall apply to
 13 taxable years beginning after December 31, 2015.

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S.B. NO. 2738

Report Title:

Renewable Energy; Solar Energy Property; Tax Credit

Description:

Replaces the current renewable energy technology systems tax credit with tax credits for solar energy property and wind energy property. Requires the Department of Taxation and Department of Business, Economic Development, and Tourism to report tax credits claimed under the renewable energy technology tax credit and make recommendations to the legislature.

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

