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



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

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

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

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

19 (2) The disposition of all applications for a variance  
20 within seven days of the determination of the variance  
21 application.



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

6 (d) Nothing in this section shall preclude any county from  
7 establishing procedures and standards required to implement this  
8 section.

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

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

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

16 (2) Electricity; or

17 (3) Fuel."

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

20 "§235-12.5 Renewable energy technologies; income tax

21 credit. (a) When the requirements of subsection [~~d~~] (c) are



1 met, each individual or corporate taxpayer that files an  
2 individual or corporate net income tax return for a taxable year  
3 may claim a tax credit under this section against the Hawaii  
4 state individual or corporate net income tax. [~~The tax credit~~  
5 ~~may be claimed for every eligible renewable energy technology~~  
6 ~~system that is installed and placed in service in the State by a~~  
7 ~~taxpayer during the taxable year.~~] The tax credit may be  
8 claimed as follows:

9 (1) For each solar energy [~~system-~~] property that is used  
10 exclusively to heat water and is installed and first  
11 placed in service in the State by a taxpayer during  
12 the taxable year: thirty-five per cent of the [~~actual~~  
13 ~~cost or the cap amount determined in subsection (b),~~  
14 ~~whichever is less, or] basis up to the applicable cap  
15 amount, which is determined as follows:~~

16 (A) \$2,250 per solar energy property for single-  
17 family residential property;

18 (B) \$350 per unit per solar energy property for  
19 multi-family residential property; and

20 (C) \$250,000 per solar energy property for commercial  
21 property;



1       (2) For each solar energy property that is used primarily  
2       to generate electricity and is installed and first  
3       placed in service in the State by a taxpayer during  
4       the taxable year:

5       (A) Twenty-five per cent of the basis for solar  
6       energy property first placed in service after  
7       December 31, 2016, and before January 1, 2020, up  
8       to the applicable cap amount, which is determined  
9       as follows:

10       (i) \$5,000 per solar energy property for single-  
11       family residential property; provided that  
12       if all or a portion of the solar energy  
13       property is used to fulfill the substitute  
14       renewable energy technology requirement  
15       pursuant to section 196-6.5(a)(3), the  
16       credit shall be reduced by twenty-five per  
17       cent of the basis or \$2,250, whichever is  
18       less;

19       (ii) \$350 per unit per solar energy property for  
20       multi-family residential property; and



- 1            (iii) \$500,000 per solar energy property for
- 2                            commercial property;
- 3        (B) Twenty per cent of the basis for solar energy
- 4            property first placed in service after
- 5            December 31, 2019, and before January 1, 2023, up
- 6            to the applicable cap amount, which is determined
- 7            as follows:
- 8            (i) \$5,000 per solar energy property for single-
- 9                            family residential property; provided that
- 10            if all or a portion of the solar energy
- 11            property is used to fulfill the substitute
- 12            renewable energy technology requirement
- 13            pursuant to section 196-6.5(a)(3), the
- 14            credit shall be reduced by twenty per cent
- 15            of the basis or \$2,250, whichever is less;
- 16            (ii) \$350 per unit per solar energy property for
- 17                            multi-family residential property; and
- 18            (iii) \$500,000 per solar energy property for
- 19                            commercial property; and
- 20        (C) Fifteen per cent of the basis for solar energy
- 21            property first placed in service after

1           December 31, 2022, up to the applicable cap  
2           amount, which is determined as follows:  
3           (i) \$5,000 per solar energy property for single-  
4           family residential property; provided that  
5           if all or a portion of the solar energy  
6           property is used to fulfill the substitute  
7           renewable energy technology requirement  
8           pursuant to section 196-6.5(a)(3), the  
9           credit shall be reduced by fifteen per cent  
10           of the basis or \$2,250, whichever is less;  
11           (ii) \$350 per unit per solar energy property for  
12           multi-family residential property; and  
13           (iii) \$500,000 per solar energy property for  
14           commercial property;  
15           (3) For each solar energy property that is used primarily  
16           to generate electricity and is installed and first  
17           placed in service in the State by a taxpayer during  
18           the taxable year; provided that the solar energy  
19           property is grid-connected and incorporates an energy  
20           storage property:



1           (A) Twenty-five per cent of the basis for solar  
2           energy property first placed in service after  
3           December 31, 2016, and before January 1, 2020, up  
4           to the applicable cap amount, which is determined  
5           as follows:

6           (i) \$10,000 per solar energy property for  
7           single-family residential property; provided  
8           that if all or a portion of the solar energy  
9           property is used to fulfill the substitute  
10           renewable energy technology requirement  
11           pursuant to section 196-6.5(a)(3), the  
12           credit shall be reduced by twenty-five per  
13           cent of the basis or \$2,250, whichever is  
14           less;

15           (ii) \$700 per unit per solar energy property for  
16           multi-family residential property; and

17           (iii) \$500,000 per solar energy property for  
18           commercial property;

19           (B) Twenty per cent of the basis for solar energy  
20           property first placed in service after  
21           December 31, 2019, and before January 1, 2023, up





1 to the applicable cap amount, which is determined  
2 as follows:

3 (i) \$10,000 per solar energy property for  
4 single-family residential property; provided  
5 that if all or a portion of the solar energy  
6 property is used to fulfill the substitute  
7 renewable energy technology requirement  
8 pursuant to section 196-6.5(a)(3), the  
9 credit shall be reduced by twenty per cent  
10 of the basis or \$2,250, whichever is less;

11 (ii) \$700 per unit per solar energy property for  
12 multi-family residential property; and

13 (iii) \$500,000 per solar energy property for  
14 commercial property; and

15 (C) Fifteen per cent of the basis for solar energy  
16 property first placed in service after  
17 December 31, 2022, up to the applicable cap  
18 amount, which is determined as follows:

19 (i) \$10,000 per solar energy property for  
20 single-family residential property; provided  
21 that if all or a portion of the solar energy



1                   property is used to fulfill the substitute  
2                   renewable energy technology requirement  
3                   pursuant to section 196-6.5(a)(3), the  
4                   credit shall be reduced by fifteen per cent  
5                   of the basis or \$2,250, whichever is less;  
6                   (ii) \$700 per unit per solar energy property for  
7                   multi-family residential property; and  
8                   (iii) \$500,000 per solar energy property for  
9                   commercial property;  
10                  (4) For each energy storage property that is installed and  
11                  first placed in service in the State by a taxpayer  
12                  during the taxable year, if the cost of the energy  
13                  storage property is not also included in the basis of  
14                  a solar or wind energy property under subsection (a):  
15                  (A) Twenty-five per cent of the basis for energy  
16                  storage property first placed in service after  
17                  December 31, 2016, and before January 1, 2020, up  
18                  to the applicable cap amount, which is determined  
19                  as follows:  
20                  (i) \$10,000 per energy storage property for  
21                  single-family residential property;



- 1           (ii) \$700 per unit per energy storage property  
2                     for multi-family residential property; and  
3           (iii) \$500,000 per energy storage property for  
4                     commercial property;

5           (B) Twenty per cent of the basis for energy storage  
6                     property first placed in service after  
7                     December 31, 2019, and before January 1, 2023, up  
8                     to the applicable cap amount, which is determined  
9                     as follows:

- 10           (i) \$10,000 per energy storage property for  
11                     single-family residential property;  
12           (ii) \$700 per unit per energy storage property  
13                     for multi-family residential property; and  
14           (iii) \$500,000 per energy storage property for  
15                     commercial property; and

16           (C) Fifteen per cent of the basis for energy storage  
17                     property first placed in service after  
18                     December 31, 2022, up to the applicable cap  
19                     amount, which is determined as follows:

- 20           (i) \$10,000 per energy storage property for  
21                     single-family residential property;



- 1           (ii) \$700 per unit per energy storage property  
2                   for multi-family residential property; and  
3           (iii) \$500,000 per energy storage property for  
4                   commercial property; and

5       ~~[(2)]~~ (5) For each ~~[wind-powered]~~ wind energy [system-]  
6           property: twenty per cent of the ~~[actual cost or the~~  
7           ~~cap amount determined in subsection (b),]~~ basis or  
8           \$ \_\_\_\_\_, whichever is less [7].

9       ~~[provided that multiple]~~ Multiple owners of a single ~~[system]~~  
10       property shall be entitled to a single tax credit [7], and  
11       ~~[provided further that]~~ the tax credit shall be apportioned  
12       between the owners in proportion to their contribution to the  
13       cost of the ~~[system-]~~ property.

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



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

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

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

9       ~~(B) \$350 per unit per system for multi-family~~  
10 ~~residential property; and~~

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

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

14       ~~(A) \$5,000 per system for single-family residential~~  
15 ~~property; provided that if all or a portion of~~  
16 ~~the system is used to fulfill the substitute~~  
17 ~~renewable energy technology requirement pursuant~~  
18 ~~to section 196-6.5(a)(3), the credit shall be~~  
19 ~~reduced by thirty-five per cent of the actual~~  
20 ~~system cost or \$2,250, whichever is less;~~



- 1           ~~(B) \$350 per unit per system for multi-family~~  
2           ~~residential property; and~~
- 3           ~~(C) \$500,000 per system for commercial property; and~~
- 4       ~~(3) For all wind powered energy systems, the cap amounts~~  
5       ~~shall be:~~
- 6           ~~(A) \$1,500 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 twenty per cent of the actual system~~  
12          ~~cost or \$1,500, whichever is less;~~
- 13          ~~(B) \$200 per unit per system for multi-family~~  
14          ~~residential property; and~~
- 15          ~~(C) \$500,000 per system for commercial property.~~
- 16       ~~(e)] (b) For the purposes of this section:~~
- 17           ~~["Actual cost" means costs related to the renewable energy~~  
18       ~~technology systems under subsection (a), including accessories~~  
19       ~~and installation, but not including the cost of consumer~~  
20       ~~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 these uses.~~

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

- 9 ~~(1) A usable source of thermal or mechanical energy;~~  
10 ~~(2) Electricity; or~~  
11 ~~(3) Fuel.]~~

12 "Basis" means costs related to the solar energy, wind  
13 energy, or energy storage property under subsection (a),  
14 including accessories, energy storage, and installation, but  
15 does not include the cost of consumer incentive premiums  
16 unrelated to the operation of the energy property or offered  
17 with the sale of the energy property and costs for which another  
18 credit is claimed under this chapter. Any cost incurred and paid  
19 for the repair, construction, or reconstruction of a structure in  
20 conjunction with the installation and placing in service of solar  
21 or wind energy property, such as the reroofing of single-family



1 residential property, multi-family residential property, or  
2 commercial property, shall not constitute a part of the basis for  
3 the purpose of this section; provided that costs incurred for the  
4 physical support of the solar or wind energy property, such as  
5 racking and mounting equipment and costs incurred to seal or  
6 otherwise return a roof to its pre-installation condition shall  
7 constitute part of the basis for the purposes of this section.

8 The basis used under this section shall be consistent with  
9 the use of basis in section 25D or section 48 of the Internal  
10 Revenue Code.

11 "Energy storage property" means any identifiable facility,  
12 equipment, or apparatus, including battery, grid-interactive  
13 water heater, ice storage air-conditioner, or the like, that is  
14 permanently fixed to a site and electrically connected to a site  
15 distribution panel by means of an installed wiring, and that  
16 receives electricity generated from various sources, stores that  
17 electricity as electrical, chemical, thermal, or mechanical  
18 energy, and delivers the energy back to an electric utility or  
19 the user of the electric system at a later time.

20 "First placed in service" has the same meaning as in 26  
21 Code of Federal Regulations 1.167(a)-11(e)(1).





1        "Grid-connected" means that the individual or corporate  
2 taxpayer has obtained an approved interconnection agreement from  
3 an electric utility for the solar energy property.

4        "Solar or wind energy [~~system~~] property" means any  
5 identifiable facility, equipment, apparatus, or the like that  
6 converts solar or wind energy to useful thermal or electrical  
7 energy for heating, cooling, or reducing the use of other types  
8 of energy that are dependent upon fossil fuel for their  
9 generation~~[-]~~; provided that:

10        (1) The construction, reconstruction, or erection of the  
11 solar or wind energy property is completed by the  
12 taxpayer; or

13        (2) The solar or wind energy property is acquired by the  
14 taxpayer if the original use of the solar or wind  
15 energy property commences with the taxpayer.

16        [~~d~~] (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~~] property and  
19 its 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,



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

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

18 [~~(g)~~] (f) For solar or wind energy [~~systems,~~] properties,  
19 a taxpayer may elect to reduce the eligible credit amount by  
20 thirty per cent and if this reduced amount exceeds the amount of  
21 income tax payment due from the taxpayer, the excess of the



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

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]~~ solar or wind energy  
10 property is installed and first placed in service. A separate  
11 election may be made for each separate ~~[system]~~ solar or wind  
12 energy property that generates a credit. An election once made  
13 is irrevocable.

14 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~ (f), for any  
15 ~~[renewable energy technology system]~~ solar or wind energy  
16 property, an individual taxpayer may elect to have any excess of  
17 the credit over payments due refunded to the taxpayer~~]~~ without  
18 discount, if:

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



1           (2) The taxpayer's adjusted gross income is \$20,000 or  
2           less (or \$40,000 or less if filing a tax return as  
3           married filing jointly);  
4 provided that tax credits properly claimed by a taxpayer who has  
5 no income tax liability shall be paid to the taxpayer; and  
6 provided further that no refund on account of the tax credit  
7 allowed by this section shall be made for amounts less than \$1.

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

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] solar or wind energy  
15 property is installed and first placed in service. A separate  
16 election may be made for each separate [system] solar or wind  
17 energy property that generates a credit. An election once made  
18 is irrevocable.

19           [~~(i)~~] (h) No taxpayer shall be allowed a credit under this  
20 section for the portion of the renewable energy technology  
21 system required by section 196-6.5 that is installed and first



1 placed in service on any newly constructed single-family  
2 residential property authorized by a building permit issued on  
3 or after January 1, 2010.

4 (i) The tax credit under this section shall be construed  
5 in accordance with federal regulations and judicial  
6 interpretations of similar provisions in sections 25D, 45, and  
7 48 of the Internal Revenue Code.

8 (j) A planned community association, condominium  
9 association of owners, or cooperative housing corporation may  
10 claim the tax credit under this section in its own name for  
11 property or facilities placed in service and located on common  
12 areas.

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

16 [~~+~~] (l) To the extent feasible, using existing resources  
17 to assist the energy-efficiency policy review and evaluation,  
18 the department shall assist with data collection on the  
19 following for each taxable year:



1           (1) The number of [~~renewable energy technology systems~~  
2            solar or wind energy properties that have qualified  
3           for a tax credit during the calendar year by:

4           (A) Technology type; and

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

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

8           (A) Technology type; and

9           (B) Taxpayer type.

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

13          SECTION 3. If any provision of this Act, or the  
14          application thereof to any person or circumstance, is held  
15          invalid, the invalidity does not affect other provisions or  
16          applications of the Act that can be given effect without the  
17          invalid provision or application, and to this end the provisions  
18          of this Act are severable.

19          SECTION 4. This Act does not affect rights and duties that  
20          matured, penalties that were incurred, and proceedings that were  
21          begun before its effective date.



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

3           SECTION 6. This Act shall take effect on July 1, 2076, and  
4 shall apply to taxable years beginning after December 31, 2016.



**Report Title:**

Renewable Energy; Solar and Wind Energy Property; Tax Credit

**Description:**

Replaces the current renewable energy technology systems tax credit with tax credits for solar energy property, wind energy property, and energy storage property. Applies to taxable years beginning after 12/31/2016. Effective 7/1/2076. (SD2)

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

