

JAN 20 2017

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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



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) \$2,250 per solar energy property for single-  
21 family residential property;



- 1           (B) \$350 per unit per solar energy property for
- 2           multi-family residential property; and
- 3           (C) \$250,000 per solar energy property for commercial
- 4           property;
- 5       (2) For each solar energy property that is used primarily
- 6       to generate electricity and is installed and first
- 7       placed in service in the State by a taxpayer during
- 8       the taxable year:
- 9           (A) Twenty-five per cent of the basis for solar
- 10          energy property first placed in service after
- 11          December 31, 2017, and before January 1, 2021, up
- 12          to the applicable cap amount, which is determined
- 13          as follows:
- 14           (i) \$5,000 per solar energy property for single-
- 15           family residential property; provided that
- 16           if all or a portion of the solar energy
- 17           property is used to fulfill the substitute
- 18           renewable energy technology requirement
- 19           pursuant to section 196-6.5(a)(3), the
- 20           credit shall be reduced by twenty-five per



1 cent of the basis or \$2,250, whichever is  
2 less;

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

5 (iii) \$500,000 per solar energy property for  
6 commercial property;

7 (B) Twenty per cent of the basis for solar energy  
8 property first placed in service after  
9 December 31, 2020, and before January 1, 2024, up  
10 to the applicable cap amount, which is determined  
11 as follows:

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

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



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



1           the taxable year; provided that the solar energy  
2           property is grid-connected and incorporates an energy  
3           storage property:

4           (A) Twenty-five per cent of the basis for solar  
5           energy property first placed in service after  
6           December 31, 2017, and before January 1, 2021, up  
7           to the applicable cap amount, which is determined  
8           as follows:

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

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

20           (iii) \$500,000 per solar energy property for  
21           commercial property;





- 1           (B) Twenty per cent of the basis for solar energy  
2           property first placed in service after  
3           December 31, 2020, and before January 1, 2024, 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 per cent  
13           of the basis or \$2,250, whichever is less;
- 14           (ii) \$700 per unit per solar energy property for  
15           multi-family residential property; and
- 16           (iii) \$500,000 per solar energy property for  
17           commercial property; and
- 18           (C) Fifteen per cent of the basis for solar energy  
19           property first placed in service after  
20           December 31, 2023, up to the applicable cap  
21           amount, which is determined as follows:



- 1                    (i) \$10,000 per solar energy property for
- 2                    single-family residential property; provided
- 3                    that if all or a portion of the solar energy
- 4                    property is used to fulfill the substitute
- 5                    renewable energy technology requirement
- 6                    pursuant to section 196-6.5(a)(3), the
- 7                    credit shall be reduced by fifteen per cent
- 8                    of the basis or \$2,250, whichever is less;
- 9                    (ii) \$700 per unit per solar energy property for
- 10                   multi-family residential property; and
- 11                   (iii) \$500,000 per solar energy property for
- 12                   commercial property;
  
- 13                   (4) For each energy storage property that is installed and
- 14                   first placed in service in the State by a taxpayer
- 15                   during the taxable year, if the cost of the energy
- 16                   storage property is not also included in the basis of
- 17                   a solar or wind energy property under subsection (a):
- 18                   (A) Twenty-five per cent of the basis for energy
- 19                   storage property first placed in service after
- 20                   December 31, 2017, and before January 1, 2021, up



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

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

5           (ii) \$700 per unit per energy storage property  
6           for multi-family residential property; and

7           (iii) \$500,000 per energy storage property for  
8           commercial property;

9           (B) Twenty per cent of the basis for energy storage  
10           property first placed in service after  
11           December 31, 2020, and before January 1, 2024, up  
12           to the applicable cap amount, which is determined  
13           as follows:

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

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

18           (iii) \$500,000 per energy storage property for  
19           commercial property; and

20           (C) Fifteen per cent of the basis for energy storage  
21           property first placed in service after



- 1                    December 31, 2023, up to the applicable cap
- 2                    amount, which is determined as follows:
- 3                    (i) \$10,000 per energy storage property for
- 4                    single-family residential property;
- 5                    (ii) \$700 per unit per energy storage property
- 6                    for multi-family residential property; and
- 7                    (iii) \$500,000 per energy storage property for
- 8                    commercial property; and

9            ~~[-(2)]~~ (5) For each ~~[wind-powered]~~ wind energy ~~[system+]~~  
 10            property: twenty per cent of the [actual cost or the  
 11            cap amount determined in subsection (b),] basis or  
 12            \$ \_\_\_\_\_, whichever is less[+].

13            ~~[provided that multiple]~~ Multiple owners of a single ~~[system]~~  
 14            property shall be entitled to a single tax credit; and [provided  
 15            further that] the tax credit shall be apportioned between the  
 16            owners in proportion to their contribution to the cost of the  
 17            [system.] property.

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

1 cost upon which the tax credit is computed shall be determined  
2 at the entity level. Distribution and share of credit shall be  
3 determined pursuant to section ~~[235-110.7(a).]~~ 704(b) of the  
4 Internal Revenue Code.

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~~



1 ~~to section 196-6.5(a)(3), the credit shall be~~  
2 ~~reduced by thirty five per cent of the actual~~  
3 ~~system cost or \$2,250, whichever is less;~~

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

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

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

9 ~~(A) \$1,500 per system for single family residential~~  
10 ~~property; provided that if all or a portion of~~  
11 ~~the system is used to fulfill the substitute~~  
12 ~~renewable energy technology requirement pursuant~~  
13 ~~to section 196-6.5(a)(3), the credit shall be~~  
14 ~~reduced by twenty per cent of the actual system~~  
15 ~~cost or \$1,500, whichever is less;~~

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

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

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

20 ~~["Actual cost" means costs related to the renewable energy~~  
21 ~~technology systems under subsection (a), including accessories~~



1 ~~and installation, but not including the cost of consumer~~  
2 ~~incentive premiums unrelated to the operation of the system or~~  
3 ~~offered with the sale of the system and costs for which another~~  
4 ~~credit is claimed under this chapter.~~

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

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

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

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



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

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

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





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

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

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

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

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

18        [~~(d)~~] (c) For taxable years beginning after December 31,  
19        2005, the dollar amount of any utility rebate shall be deducted  
20        from the [~~cost~~] basis of the qualifying [~~system~~] property and  
21        its 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) or  
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.

20           ~~[(g)]~~ (f) For solar or wind energy ~~[systems]~~ properties,  
21 a taxpayer may elect to reduce the eligible credit amount by



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

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

16 [~~h~~] (g) Notwithstanding subsection [~~g~~]-7 (f), for any  
17 [~~renewable energy technology system~~]-7 solar or wind energy  
18 property an individual taxpayer may elect to have any excess of  
19 the credit over payments due refunded to the taxpayer[-7] without  
20 discount, if:



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

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

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

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

14 The election required by this subsection shall be made in a  
15 manner prescribed by the director on the taxpayer's return for  
16 the taxable year in which the ~~[system]~~ solar or wind energy  
17 property is installed and first placed in service. A separate  
18 election may be made for each separate ~~[system]~~ solar or wind  
19 energy property that generates a credit. An election once made  
20 is irrevocable.



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

7           (i) The tax credit under this section shall be construed  
8 in accordance with federal regulations and judicial  
9 interpretations of similar provisions in sections 25D, 45, and  
10 48 of the Internal Revenue Code.

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

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

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



1 the department shall assist with data collection on the  
2 following for each taxable year:

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

6 (A) Technology type; and

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

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

10 (A) Technology type; and

11 (B) Taxpayer type.

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

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



1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

6 SECTION 6. This Act shall take effect on July 1, 2017 and  
7 shall apply to taxable years beginning after December 31, 2017.

8

INTRODUCED BY ~~James J. ...~~

*Mark ...*  
*John ...*  
*Daniel ...*



# S.B. NO. 665

**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 12/31/2017.

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

