

JAN 17 2024

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY TAX CREDITS.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§235- Transferability of renewable energy technologies
5 income tax credits; condominium associations. (a) Each
6 condominium association that claims a renewable energy
7 technologies income tax credit under section 235-12.5, may
8 transfer the credit, or a portion thereof, to another individual
9 or corporate taxpayer that is not related to the condominium
10 association for fair and reasonable consideration. The
11 individual or corporate taxpayer that receives the transferred
12 credit shall be known as the transferee taxpayer and shall be
13 treated as the taxpayer for the purposes of subsections
14 235-12.5(f) through 235-12.5(h).

15 (b) Any amount paid by the transferee taxpayer to the
16 condominium association as consideration for the transfer of



1 credits described in subsection (a) shall be paid in cash and
2 shall not be:

3 (1) Included in the condominium association's gross
4 income; or

5 (2) Deducted by the transferee taxpayer.

6 (c) The condominium association shall elect to transfer
7 the credit, or a portion thereof, by filing with the department
8 of taxation on or before the end of the twelfth month following
9 the close of the taxable year for which the credit may be
10 claimed. Failure to comply with the foregoing provision shall
11 constitute a waiver of the right to transfer the credit.
12 Transferred credits received during the taxable year by the
13 transferee taxpayer may be claimed for that taxable year
14 pursuant to subsection 235-12.5(f).

15 (d) Credit transfers shall become irrevocable upon
16 election. A transferee taxpayer shall not transfer credits
17 received pursuant to this section.

18 (e) The director of taxation shall prepare any forms that
19 may be necessary to transfer and claim a tax credit under this
20 section. The director may also require the taxpayer and
21 transferee taxpayer to furnish reasonable information to



1 ascertain the validity of the transfer of and 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) For purposes of this section, "transferee taxpayer"
 5 means an individual or corporate taxpayer that receives a tax
 6 credit transferred pursuant to this section."

7 SECTION 2. Section 235-12.5, Hawaii Revised Statutes, is
 8 amended by amending subsection (a) to read as follows:

9 "(a) Each individual or corporate taxpayer that files an
 10 individual or corporate net income tax return for a taxable year
 11 may claim a tax credit under this section against the Hawaii
 12 state individual or corporate net income tax. The tax credit
 13 may be claimed for every eligible renewable energy technology
 14 system that is installed and placed in service in the State by a
 15 taxpayer during the taxable year. The tax credit may be claimed
 16 as follows:

17 (1) For each solar energy system: thirty-five per cent of
 18 the actual cost or the cap amount determined in
 19 subsection (b); provided that:

20 (A) For taxable years beginning after December 31,
 21 2019, and except as provided in subparagraphs (B)



1 and (C), no tax credit may be claimed for a solar
2 energy system that is five megawatts in total
3 output capacity or larger and requires a power
4 purchase agreement approved by the public
5 utilities commission;

6 (B) A solar energy system that is five megawatts in
7 total output capacity or larger, installed and
8 placed in service pursuant to a power purchase
9 agreement approved or pending approval by a
10 decision and order by the public utilities
11 commission [~~prior to~~] before December 31, 2019,
12 shall continue to receive a tax credit equal to
13 thirty-five per cent of the actual cost, or
14 \$500,000 per solar energy system that has a total
15 output capacity of at least one thousand
16 kilowatts per system of direct current, whichever
17 is less; and

18 (C) For each solar energy system integrated with a
19 pumped hydroelectric energy storage system, the
20 tax credit may be claimed for thirty-five per
21 cent of the actual cost or the cap amount



1 determined in subsection (b), whichever is less;
2 provided that applicable project approval filings
3 have been made to the public utilities commission
4 by December 31, 2021; or

5 (2) For each wind-powered energy system: twenty per cent
6 of the actual cost or the cap amount determined in
7 subsection (b), whichever is less;

8 provided further that multiple owners of a single system shall
9 be entitled to a single tax credit [~~and provided further~~] that
10 [~~the tax credit~~] shall be apportioned between the owners in
11 proportion to their contribution to the cost of the system [~~and~~],
12 except that when a condominium association transfers the tax
13 credit, or a portion thereof, to a transferee taxpayer under
14 section 235- , the condominium association unit owners shall
15 not be entitled to any apportionment or distribution of the
16 transferred tax credit in proportion to their respective
17 ownership share.

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 that is installed and placed in service
21 in the State by the entity. The cost upon which the tax credit



1 is computed shall be determined at the entity level.
2 Distribution and share of credit shall be determined pursuant to
3 administrative rule."

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

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

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

15 SECTION 6. This Act, upon its approval, shall apply to
16 taxable years beginning after December 31, 2023.

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INTRODUCED BY: _____

A large, stylized handwritten signature in black ink is written over a horizontal line that follows the text "INTRODUCED BY:". The signature is cursive and appears to be the initials "JBL".

S.B. NO. 2108

Report Title:

DOTAX; Renewable Energy Technologies Income Tax Credit;
Condominium Associations; Credit Transfers

Description:

Allows a condominium association that claims a Renewable Energy Technologies Income Tax Credit under section 235-12.5, HRS, to transfer the credit, or a portion thereof, to another individual or corporate taxpayer that is not related to the condominium association for fair and reasonable consideration; requires the Director of the Department of Taxation to prepare forms necessary for the transfer of Renewable Energy Technologies Income Tax Credits. Provides that condominium association unit owners shall not be entitled to any apportionment or distribution of a transferred Renewable Energy Technologies Income Tax Credit when a condominium association transfers the tax credit.

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

