



GOV. MSG. NO. 771

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 25, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 25, 2009, the following bill was signed into law:

SB464 SD2 HD2 CD2

A BILL FOR AN ACT
RELATING TO TAXATION.
ACT 154 (09)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO TAXATION.

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 ~~[(e)]~~ (d) 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. ~~[This credit shall be~~
12 ~~available for systems installed and placed in service in the~~
13 ~~State after June 30, 2003.]~~ The tax credit may be claimed as
14 follows:

- 15 ~~[-(1) Solar thermal energy systems for:~~
- 16 ~~-(A) Single family residential property for which a~~
- 17 ~~building permit was issued prior to January 1,~~



1 ~~2010: thirty five per cent of the actual cost or~~
2 ~~\$2,250, whichever is less;~~

3 ~~(B) Multi family residential property: thirty five~~
4 ~~per cent of the actual cost or \$350 per unit,~~
5 ~~whichever is less; and~~

6 ~~(C) Commercial property: thirty five per cent of the~~
7 ~~actual cost or \$250,000, whichever is less;~~

8 ~~(2) Wind powered energy systems for:~~

9 ~~(A) Single family residential property: twenty per~~
10 ~~cent of the actual cost or \$1,500, whichever is~~
11 ~~less;~~

12 ~~(B) Multi family residential property: twenty per~~
13 ~~cent of the actual cost or \$200 per unit,~~
14 ~~whichever is less; and~~

15 ~~(C) Commercial property: twenty per cent of the~~
16 ~~actual cost or \$500,000, whichever is less; and~~

17 ~~(3) Photovoltaic energy systems for:~~

18 ~~(A) Single family residential property: thirty five~~
19 ~~per cent of the actual cost or \$5,000, whichever~~
20 ~~is less;~~

1 ~~(B) Multi-family residential property: thirty five~~
2 ~~per cent of the actual cost or \$350 per unit,~~
3 ~~whichever is less; and~~

4 ~~(C) Commercial property: thirty five per cent of the~~
5 ~~actual cost or \$500,000, whichever is less;]~~

6 (1) For each solar energy system: thirty-five per cent of
7 the actual cost or the cap amount determined in
8 subsection (b), whichever is less; or

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

12 provided that multiple owners of a single system shall be
13 entitled to a single tax credit; and provided further that the
14 tax credit shall be apportioned between the owners in proportion
15 to their contribution to the cost of the system.

16 In the case of a partnership, S corporation, estate, or
17 trust, the tax credit allowable is for every eligible renewable
18 energy technology system that is installed and placed in service
19 in the State by the entity. The cost upon which the tax credit
20 is computed shall be determined at the entity level.

21 Distribution and share of credit shall be determined pursuant to
22 section 235-110.7(a).



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;

21 (B) \$350 per unit per system for multi-family
22 residential property; and



1 (C) \$500,000 per system for commercial property;
2 and

3 (3) For all wind-powered energy systems, the cap amounts
4 shall be:

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

12 (B) \$200 per unit per system for multi-family
13 residential property; and

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

15 ~~[(b)]~~ (c) For the purposes of this section:

16 "Actual cost" means costs related to the renewable energy
17 technology systems under subsection (a), including accessories
18 and installation, but not including the cost of consumer
19 incentive premiums unrelated to the operation of the system or
20 offered with the sale of the system and costs for which another
21 credit is claimed under this chapter.

1 "Household use" means any use to which heated water is
2 commonly put in a residential setting, including commercial
3 application of those uses.

4 "Renewable energy technology system" means a new system
5 that captures and converts a renewable source of energy, such as
6 [~~wind, heat (solar thermal), or light (photovoltaic) from the~~
7 ~~sun]~~ solar or wind energy, into:

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

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

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

21 [~~(d)~~] (e) The director of taxation shall prepare any forms
22 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 thermal,~~
3 ~~photovoltaic from the sun,~~] solar or wind. The director may
4 also require the taxpayer to furnish reasonable information to
5 ascertain the validity of the claim for credit made under this
6 section and may adopt rules necessary to effectuate the purposes
7 of this section pursuant to chapter 91.

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

19 [~~(f)~~] ~~By or before December, 2005, to the extent feasible,~~
20 ~~using existing resources to assist the energy efficiency policy~~
21 ~~review and evaluation, the department shall assist with data~~
22 ~~collection on the following:~~



1 ~~(1) The number of renewable energy technology systems that~~
2 ~~have qualified for a tax credit during the past year~~
3 ~~by:~~

4 ~~(A) Technology type (solar thermal, photovoltaic from~~
5 ~~the sun, and wind); and~~

6 ~~(B) Taxpayer type (corporate and individual); and~~

7 ~~(2) The total cost of the tax credit to the State during~~
8 ~~the past year by:~~

9 ~~(A) Technology type; and~~

10 ~~(B) Taxpayer type.~~

11 ~~(g) For systems installed and placed in service in 2009,~~
12 ~~no residential home developer shall be entitled to claim the~~
13 ~~credit under subsections (a)(1)(A), (a)(2)(A), and (a)(3)(A). A~~
14 ~~residential home developer is defined as a person who holds more~~
15 ~~than one residential dwelling for sale as inventory.]~~

16 (g) For solar energy systems, a taxpayer may elect to
17 reduce the eligible credit amount by thirty per cent and if this
18 reduced amount exceeds the amount of income tax payment due from
19 the taxpayer, the excess of the credit amount over payments due
20 shall be refunded to the taxpayer; provided that tax credit
21 amounts properly claimed by a taxpayer who has no income tax
22 liability shall be paid to the taxpayer; and provided further



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

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

9 (h) Notwithstanding subsection (g), for any renewable
10 energy technology system, an individual taxpayer may elect to
11 have any excess of the credit over payments due refunded to the
12 taxpayer, if:

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

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

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



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

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 is installed and placed in
8 service. A separate election may be made for each separate
9 system that generates a credit. An election once made is
10 irrevocable.

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

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



1 (1) The number of renewable energy technology systems that
2 have qualified for a tax credit during the calendar
3 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

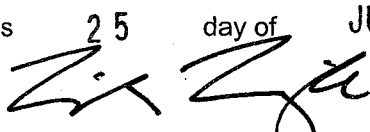
9 (B) Taxpayer type.

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 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on July 1, 2009, and
16 shall apply to taxable years beginning after December 31, 2008.

APPROVED this 25 day of JUN, 2009



GOVERNOR OF THE STATE OF HAWAII