
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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 ~~[(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),~~



1 ~~whichever is less, or]~~ basis up to the applicable cap
2 amount, which is determined as follows:

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

5 (B) \$500 per unit per property for multi-family
6 residential property; and

7 (C) \$250,000 per property for commercial property;

8 (2) For each solar energy property that is used primarily
9 to generate electricity, is less than one megawatt in
10 alternating current capacity, and is installed and
11 first placed in service in the State by a taxpayer
12 during the taxable year:

13 (A) 30 per cent of the basis for solar energy
14 property first placed in service after December
15 31, 2012, and before January 1, 2014;

16 (B) 25 per cent of the basis for solar energy
17 property first placed in service after December
18 31, 2013, and before January 1, 2016;

19 (C) 20 per cent of the basis for solar energy
20 property first placed in service after December
21 31, 2015, and before January 1, 2018; and



1 (D) 15 per cent of the basis for solar energy
2 property first placed in service after December
3 31, 2017;

4 provided that no energy property that receives a tax credit
5 under this paragraph may later receive a production tax
6 credit even if the property is one megawatt or greater;

7 (3) For each solar energy property that is used to
8 generate electricity, has not already received a tax
9 credit under paragraph (2), and is one megawatt or
10 larger in alternating current capacity and that is
11 first placed in service:

12 (A) On or before December 31, 2016, 8 cents
13 multiplied by the number of kilowatt-hours
14 produced by the solar energy property and sold by
15 the taxpayer via a power purchase agreement
16 during the taxable year or used on-site to offset
17 the site's demand for electricity during the
18 taxable year for the first ten years that the
19 solar energy property is in service;

20 (B) After December 31, 2016, but on or before
21 December 31, 2020, 6 cents multiplied by the
22 number of kilowatt-hours produced by the solar



1 energy property and sold by the taxpayer via a
2 power purchase agreement during the taxable year
3 or used on-site to offset the site's demand for
4 electricity during the taxable year for the first
5 ten years that the solar energy property is in
6 service; and

7 (C) After December 31, 2020, 4 cents multiplied by
8 the number of kilowatt-hours produced by the
9 solar energy property and sold by the taxpayer
10 via a power purchase agreement during the taxable
11 year or used on-site to offset the site's demand
12 for electricity during the taxable year for the
13 first ten years that the solar energy property is
14 in service; or

15 ~~[(+2)]~~ (4) For each ~~[wind-powered]~~ wind energy ~~[system+]~~
16 property that is less than one megawatt in output and
17 is not part of a larger wind energy property: twenty
18 per cent of the ~~[actual cost or the cap amount~~
19 ~~determined in subsection (b),]~~ basis or \$ _____,
20 whichever is less[+]
21 ~~provided that multiple].~~ Multiple owners of a single ~~[system]~~
22 property shall be entitled to a single tax credit[+], and



1 ~~[provided further that]~~ the tax credit shall be apportioned
2 between the owners in proportion to their contribution to the
3 cost of the ~~[system.]~~ property.

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

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

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

17 ~~(A) \$2,250 per system for single family residential
18 property;~~

19 ~~(B) \$350 per unit per system for multi family
20 residential property; and~~

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



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

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

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

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

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

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

1 ~~(B) \$200 per unit per system for multi-family~~
2 ~~residential property; and~~
3 ~~(C) \$500,000 per system for commercial property.~~

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

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

11 ~~"Household use" means any use to which heated water is~~
12 ~~commonly put in a residential setting, including commercial~~
13 ~~application of those uses.]~~

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

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

9 The basis used under this section shall be consistent with
10 the use of basis in section 25D or section 48 of the Internal
11 Revenue Code; provided that, for the purposes of calculating the
12 credit allowed under this section, the basis of the solar energy
13 property or the wind energy property shall not be reduced by the
14 amount of any federal tax credit or other federally subsidized
15 energy financing received by the taxpayer.

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

18 "Property" means equipment that uses solar or wind energy
19 to generate electricity, the construction, reconstruction, or
20 erection of which is completed by the taxpayer, or which is
21 acquired by the taxpayer if the original use of the property
22 commences with the taxpayer.



1 "Public sector agency" means any political subdivision,
2 agency, or instrumentality of the State or of the federal
3 government.

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

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

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

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

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

1 The director may also require the taxpayer to furnish reasonable
2 information to ascertain the validity of the claim for credit
3 made under this section and may adopt rules necessary to
4 effectuate the purposes of this section pursuant to chapter 91.

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

16 ~~[(g)]~~ (f) For solar energy ~~[systems,]~~ properties under
17 subsection (a) (1) and (2) or for any wind energy property under
18 subsection (a) (4), a taxpayer may elect to reduce the eligible
19 credit amount by thirty per cent and if this reduced amount
20 exceeds the amount of income tax payment due from the taxpayer,
21 the excess of the credit amount over payments due shall be
22 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~~] property that generates a credit. An
10 election once made is irrevocable.

11 [~~(h)~~] (g) Notwithstanding subsection [~~(g)~~], (f), for any
12 [~~renewable energy technology system,~~] solar energy property
13 under subsection (a)(1) and (2) or for any wind energy property
14 under subsection (a)(4), an individual taxpayer may elect to
15 have any excess of the credit over payments due refunded to the
16 taxpayer[~~]~~ without discount, if:

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



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

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

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

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



1 ~~[(j) To the extent feasible, using existing resources to~~
2 ~~assist the energy efficiency policy review and evaluation, the~~
3 ~~department shall assist with data collection on the following~~
4 ~~for each taxable year.]~~

5 (i) If the tax credit under subsection (a)(3) exceeds the
6 taxpayer's income tax liability, the excess of the credit over
7 liability shall be refunded to the taxpayer; provided that tax
8 credit amounts properly claimed by a taxpayer who has no income
9 tax liability shall be paid to the taxpayer; provided further
10 that no refund on account of the tax credit allowed by this
11 section shall be made for amounts less than \$1. No property
12 placed in service pursuant to subsection (a)(3) shall be subject
13 to a reduction in refund payments for any subsequent year by any
14 legislative act or executive decision.

15 (j) The tax credit provided for in this section shall be
16 construed in accordance with Treasury Regulations and judicial
17 interpretations of similar provisions in sections 25D, 45, and
18 48 of the Internal Revenue Code.

19 (k) Notwithstanding the foregoing, and in lieu of the
20 credit described above, an individual or corporate taxpayer not
21 currently regulated by the public utilities commission that had
22 by December 31, 2012, had entered into an agreement with a



1 public sector agency pursuant to a public solicitation and
2 procurement process for the sale of electrical energy from non-
3 residential solar energy property with less than one megawatt of
4 alternating current capacity shall be allowed to elect to
5 receive the tax credit for energy properties placed into service
6 prior to January 1, 2014, on the same basis as if the energy
7 property had been placed into service prior to January 1, 2013;
8 provided that the taxpayer shall provide a copy of the agreement
9 to the department of taxation.

10 (l) Taxpayers who have received letters from the
11 department of taxation extending the department's letter rulings
12 or determination letters prior to December 31, 2013, and have
13 submitted the requested status update may qualify for the tax
14 credit as it existed on December 31, 2012; provided that the
15 energy property is first placed in service on or before December
16 31, 2013.

17 (m) An association of owners under chapter 421I, 421J,
18 514A, or 514B may claim the credit allowed under this section in
19 its own name for property or facilities placed in service and
20 located on common areas.



1 (n) No credit under this section shall be allowed to any
2 federal, state, or local government or any political
3 subdivision, agency, or instrumentality thereof.

4 (o) The department of taxation, in collaboration with the
5 department of business, economic development, and tourism, shall
6 submit a joint report to the legislature annually no later than
7 twenty days prior to the convening of each regular session on
8 the following for the preceding taxable year:

9 (1) The number of renewable energy technology [~~systems~~]
10 properties that have qualified for a tax credit during
11 the calendar year by:

- 12 (A) Technology type; and
- 13 (B) Taxpayer type (corporate and individual); [~~and~~]

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

- 16 (A) Technology type; [~~and~~]
- 17 (B) Taxpayer type[-];
- 18 (C) Tax credit type (investment or production); and
- 19 (D) Refundability type (refundable or nonrefundable);

20 and



1 (3) The estimated economic benefit that may be
2 attributable to the renewable energy tax credit,
3 including:

4 (A) Impact on the economy, including:

5 (i) Economic boost;

6 (ii) Net flow of money into or out of the State;

7 and

8 (iii) General excise and income tax revenue

9 generated; and

10 (B) Jobs, including:

11 (i) Number of jobs maintained;

12 (ii) Number of jobs created and the number of

13 jobs lost; and

14 (iii) Average pay.

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

18 (p) The department of business, economic development, and
19 tourism shall commence a study no later than July 1, 2016, on
20 the costs incurred and benefits generated by this section, as
21 well as the extent to which the tax credit under this section
22 has helped the State to achieve its energy goals. In conducting



1 this study, the department of business, economic development,
2 and tourism shall consult with the department of taxation and
3 industry trade groups and may consult with other stakeholders.
4 The department of business, economic development, and tourism
5 shall submit a report to the legislature no later than December
6 31, 2017. This report to the legislature shall include, at a
7 minimum, the following:

- 8 (1) The elements in subsection (o);
9 (2) The results of its study; and
10 (3) Recommendations on whether the tax credit under this
11 section should be wholly or partially continued,
12 eliminated, or revised."

13 SECTION 2. 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 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect on July 1, 2050, and
22 shall apply to taxable years beginning after December 31, 2012.



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. Effective July 1, 2050. (SB623 HD3)

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

