

JAN 24 2019

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,]~~ Solar energy,
4 energy storage, wind energy system; income tax credit. (a)

5 When the requirements of subsection [~~(d)~~] (c) are met, each
6 individual or corporate taxpayer that files an individual or
7 corporate net income tax return for a taxable year may claim a
8 tax credit under this section against the Hawaii state
9 individual or corporate net income tax. [~~The tax credit may be~~
10 ~~claimed for every eligible renewable energy technology system~~
11 ~~that is installed and placed in service in the State by a~~
12 ~~taxpayer during the taxable year.] The tax credit may be
13 claimed as follows:~~

14 (1) For each solar energy system[+] that is used
15 exclusively to heat water and is installed and first
16 placed in service in the State by a taxpayer during
17 the taxable year: thirty-five per cent of the [actual



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1 ~~cost or the cap amount determined in subsection (b),~~
2 ~~whichever is less; or] basis up to the applicable cap~~
3 ~~amount, which is determined as follows:~~

4 (A) \$2,250 per solar energy system for single-family
5 residential property;

6 (B) \$350 per unit per solar energy system for multi-
7 family residential property; provided that if the
8 multi-family residential property is classified
9 as low-income, affordable housing, or senior
10 housing, the single-family residential cap
11 pursuant to subparagraph (A) shall apply per
12 unit; and

13 (C) \$250,000 per solar energy system for commercial
14 property;

15 (2) For each solar energy system that is used primarily to
16 generate electricity and is installed and first placed
17 in service in the State by a taxpayer during the
18 taxable year:

19 (A) Twenty-five per cent of the basis for solar
20 energy systems first placed in service after
21 December 31, 2019, and before January 1, 2025, up



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

3 (i) \$5,000 per solar energy system for single-
4 family residential property; provided that
5 if all or a portion of the solar energy
6 system 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-five per
10 cent of the basis or \$2,250, whichever is
11 less;

12 (ii) \$350 per unit per solar energy system for
13 multi-family residential property; provided
14 that if the multi-family residential
15 property is classified as low-income,
16 affordable housing, or senior housing, the
17 single-family residential cap pursuant to
18 clause (i) shall apply per unit; and

19 (iii) \$500,000 per solar energy system for
20 commercial property; provided that a solar
21 energy system that has an executed customer



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1 service contract dated prior to June 30,
2 2018, and is installed and first placed in
3 service before December 31, 2019, shall
4 receive thirty-five per cent of the basis
5 for the solar energy system, up to the
6 applicable cap amount as described in this
7 clause, or a power purchase agreement dated
8 prior to December 31, 2019, and first placed
9 into service before December 31, 2024, shall
10 receive thirty-five per cent of the basis
11 for the solar energy system, up to the
12 applicable cap amount as described in this
13 clause;

14 (B) Twenty per cent of the basis for solar energy
15 systems first placed in service after
16 December 31, 2024, and before January 1, 2026, up
17 to the applicable cap amount, which is determined
18 as follows:

19 (i) \$5,000 per solar energy system for single-
20 family residential property; provided that
21 if all or a portion of the solar energy



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1 system 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 twenty per cent
5 of the basis or \$2,250, whichever is less;
6 (ii) \$350 per unit per solar energy system for
7 multi-family residential property; provided
8 that if the multi-family residential
9 property is classified as low-income,
10 affordable housing, or senior housing, the
11 single-family residential cap pursuant to
12 clause (i) shall apply per unit; and
13 (iii) \$500,000 per solar energy system for
14 commercial property; and
15 (C) Fifteen per cent of the basis for solar energy
16 systems first placed in service after
17 December 31, 2025, up to the applicable cap
18 amount, which is determined as follows:
19 (i) \$5,000 per solar energy system for single-
20 family residential property; provided that
21 if all or a portion of the solar energy



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1 system 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) \$350 per unit per solar energy system for
7 multi-family residential property; provided
8 that if the multi-family residential
9 property is classified as low-income,
10 affordable housing, or senior housing, the
11 single-family residential cap pursuant to
12 clause (i) shall apply per unit; and
13 (iii) \$500,000 per solar energy system for
14 commercial property;
15 (3) For each energy storage system that is installed and
16 first placed in service in the State by a taxpayer
17 during the taxable year, if the cost of the energy
18 storage system is not also included in the basis of a
19 solar or wind energy system under paragraphs (2) and
20 (4):



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1 (A) Twenty-five per cent of the basis for energy
2 storage systems first placed in service after
3 December 31, 2019, and before January 1, 2025, up
4 to the applicable cap amount, which is determined
5 as follows:

6 (i) \$5,000 per energy storage system for single-
7 family residential property;

8 (ii) \$350 per unit per energy storage system for
9 multi-family residential property; provided
10 that if the multi-family residential
11 property is classified as low-income,
12 affordable housing, or senior housing, the
13 single-family residential cap pursuant to
14 clause (i) shall apply per unit; and

15 (iii) \$500,000 per energy storage system for
16 commercial property;

17 (B) Twenty per cent of the basis for energy storage
18 systems first placed in service after
19 December 31, 2024, and before January 1, 2026, up
20 to the applicable cap amount, which is determined
21 as follows:



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- 1 (i) \$5,000 per energy storage system for single-
- 2 family residential property;
- 3 (ii) \$350 per unit per energy storage system for
- 4 multi-family residential property; provided
- 5 that if the multi-family residential
- 6 property is classified as low-income,
- 7 affordable housing, or senior housing, the
- 8 single-family residential cap pursuant to
- 9 clause (i) shall apply per unit; and
- 10 (iii) \$500,000 per energy storage system for
- 11 commercial property; and
- 12 (C) Fifteen per cent of the basis for energy storage
- 13 systems first placed in service after
- 14 December 31, 2025, up to the applicable cap
- 15 amount, which is determined as follows:
- 16 (i) \$5,000 per energy storage system for single-
- 17 family residential property;
- 18 (ii) \$350 per unit per energy storage system for
- 19 multi-family residential property; provided
- 20 that if the multi-family residential
- 21 property is classified as low-income,



1 affordable housing, or senior housing, the
2 single-family residential cap pursuant to
3 subparagraph (A) shall apply per unit; and
4 (iii) \$500,000 per energy storage system for
5 commercial property;

6 [-(2)-] (4) For each [wind-powered] wind energy system[+],
7 twenty per cent of the [actual cost or the cap amount
8 determined in subsection (b), whichever is less;]
9 basis, up to the applicable cap amount, which is
10 determined as follows:

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

18 (B) \$200 per unit per wind energy system for multi-
19 family residential property; and

20 (C) \$500,000 per wind energy system for commercial
21 property; provided that a wind energy system that



1 has an executed customer service contract dated
2 prior to June 30, 2018, and is installed and
3 first placed in service before December 31, 2019,
4 shall receive thirty per cent of the basis for
5 the wind energy system, up to the applicable cap
6 amount as described in this subparagraph, or a
7 power purchase agreement dated prior to
8 December 31, 2019, and first placed into service
9 before December 31, 2024, shall receive thirty
10 per cent of the basis for the wind energy system,
11 up the applicable cap amount as described in this
12 subparagraph;

13 ~~[provided that multiple]~~ Multiple owners of a single system
14 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.

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]~~ solar energy, energy storage, or wind energy
21 system that is installed and placed in service in the State by



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



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



1 with the installation and placing in service of a solar or wind
2 energy system, 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 system, 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 term "basis" used under this section shall be
11 consistent with the use of the term "basis" in section 25D or
12 section 48 of the Internal Revenue Code.

13 "Commercial energy storage system" means any one system
14 that has a total output capacity of at least one thousand
15 kilowatts.

16 "Energy storage system" means any identifiable facility,
17 equipment, apparatus, or the like, including a battery, grid-
18 interactive water heater, or ice storage air conditioner, that
19 is permanently fixed to a site and electrically connected to a
20 site distribution panel by means of installed wiring, and that
21 receives electricity generated from various sources, stores that



1 electricity as electrical, chemical, thermal, or mechanical
2 energy, and delivers the energy back to an electric utility or
3 the user of the electric system at a later time.

4 "First placed in service" has the same meaning as in title
5 26 Code of Federal Regulations section 1.167(a)-11(e)(1).

6 "Grid-connected" means that the individual or corporate
7 taxpayer has obtained an approved interconnection agreement from
8 an electric utility for the solar energy system or whose
9 facility does not have an existing tie to the electric grid.

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 provided that:

16 (1) The construction, reconstruction, or erection of the
17 solar or wind energy system is completed by the
18 taxpayer; or

19 (2) The solar or wind energy system is acquired by the
20 taxpayer if the original use of the solar or wind
21 energy system commences with the taxpayer.



1 ~~[(d)]~~ (c) For taxable years beginning after December 31,
2 2005, the dollar amount of any utility rebate shall be deducted
3 from the ~~[cost]~~ basis of the qualifying system and its
4 installation before applying the state tax credit.

5 ~~[(e)]~~ (d) The director of taxation shall prepare any forms
6 that may be necessary to claim a tax credit under this section,
7 including forms identifying the technology type of each tax
8 credit claimed under this section~~[, whether for solar or wind]~~.
9 The director may also require the taxpayer to furnish reasonable
10 information to ascertain the validity of the claim for credit
11 made under this section and may adopt rules necessary to
12 effectuate the purposes of this section pursuant to chapter 91.

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



1 subsection shall constitute a waiver of the right to claim the
2 credit.

3 ~~[(g)]~~ (f) For solar or wind energy storage systems, a
4 taxpayer may elect to reduce the eligible credit amount by
5 thirty per cent and if this reduced amount exceeds the amount of
6 income tax payment due from the taxpayer, the excess of the
7 credit amount over payments due shall be refunded to the
8 taxpayer; provided that tax credit amounts properly claimed by a
9 taxpayer who has no income tax liability shall be paid to the
10 taxpayer; and provided further that no refund on account of the
11 tax credit allowed by this section shall be made for amounts
12 less than \$1.

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

20 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)],~~ (f), for any
21 ~~[renewable energy technology]~~ solar or wind energy storage



1 system, an individual taxpayer may elect to have any excess of
2 the credit over payments due refunded to the taxpayer[-] without
3 discount, if:

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

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

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

13 A [~~husband and wife~~] married couple who do not file a joint
14 tax return shall only be entitled to make this election to the
15 extent that they would have been entitled to make the election
16 had they filed a joint tax return.

17 The election required by this subsection shall be made in a
18 manner prescribed by the director on the taxpayer's return for
19 the taxable year in which the solar or wind energy storage
20 system is installed and first placed in service. A separate
21 election may be made for each separate solar or wind energy



1 storage system that generates a credit. An election once made
2 is irrevocable.

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

9 (i) The tax credit under this section shall be construed
10 in accordance with Treasury Regulations and judicial
11 interpretations of similar provisions in sections 25D, 45, and
12 48 of the Internal Revenue Code.

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

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



1 (1) No credit under this section shall be authorized for
2 taxable years ending after December 31, 2037.

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

7 (1) The number of ~~[renewable energy technology]~~ solar or
8 wind energy storage systems that have qualified for a
9 tax credit during the calendar year by:

10 (A) Technology type; and

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

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

14 (A) Technology type; and

15 (B) Taxpayer type.

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

19 SECTION 2. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

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

9 SECTION 5. This Act shall take effect on July 1, 2019;
10 provided that section 1 shall apply to taxable years beginning
11 after December 31, 2019.

12

INTRODUCED BY: Francine L. Sroufe

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S.B. NO. 1163

Report Title:

Renewable Energy; Solar and Wind Energy System; Energy Storage System; Tax Credit

Description:

Replaces the current renewable energy technology systems tax credit with tax credits for solar or wind energy systems and energy storage systems. Applies to taxable years beginning after 12/31/2019.

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

