
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY TECHNOLOGIES TAX CREDITS.

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

1 SECTION 1. The legislature finds that, every year,
2 proposals to change or eliminate renewable energy tax credits
3 are submitted that could potentially negatively affect renewable
4 energy projects that are currently in development and that were
5 initiated in reliance on existing renewable energy tax credits.
6 These renewable energy tax credits are applied to the rates that
7 are contracted with the electric utilities and ultimately
8 reflected in the rates benefitting ratepayers. Changes to
9 renewable energy tax credits that affect renewable energy
10 projects already under development would negatively impact the
11 financeability rate and overall viability of affected renewable
12 energy projects, which would hinder the electric utility in
13 achieving the State's renewable portfolio standard of one
14 hundred per cent by 2045.

15 The legislature further finds that renewable energy tax
16 credits for utility-scale projects contracted with an electric
17 utility and approved by the public utilities commission's



1 decision and order in 2019 must be claimed on tax returns filed
2 after the project is commercially operational in subsequent
3 years. As a result, these projects are at risk for any changes
4 in law that might reduce the value of the credit between now and
5 the completion of the project. Any changes to renewable energy
6 tax credits prior to the completion of these projects could
7 financially harm the developer's ability to deliver the proposed
8 renewable energy projects, which would ultimately harm the
9 ratepayers and the State's energy policy goals. It is therefore
10 important to provide developers of utility-scale renewable
11 energy projects with certainty that the currently existing
12 renewable energy tax credit will still apply to projects that
13 were already approved by the public utilities commission in
14 2019, and are currently under development, when they are
15 ultimately completed. This assurance will help reduce risks and
16 costs for developers and increase the number of developers
17 willing to propose and develop renewable energy projects in
18 Hawaii. Increasing competition for renewable energy projects is
19 in the public interest, as it will help reduce renewable energy
20 costs for ratepayers.



1 Accordingly, the purpose of this Act is to ensure that
2 previously approved commercial utility-scale renewable energy
3 projects that are currently under development are not to be
4 affected by any subsequent amendments to existing state law
5 relating to the renewable energy technologies income tax credit.

6 SECTION 2. Section 235-12.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§235-12.5 Renewable energy technologies; income tax**
9 **credit.** (a) When the requirements of subsection (d) are met,
10 each individual or corporate taxpayer that files an individual
11 or corporate net income tax return for a taxable year may claim
12 a tax credit under this section against the Hawaii state
13 individual or corporate net income tax. The tax credit may be
14 claimed for every eligible renewable energy technology system
15 that is installed and placed in service in the State by a
16 taxpayer during the taxable year. The tax credit may be claimed
17 as follows:

18 (1) For each solar energy system: thirty-five per cent of
19 the actual cost or the cap amount determined in
20 subsection (b), whichever is less; [~~or~~] provided that,
21 notwithstanding any law to the contrary and any



1 subsequent amendments to this paragraph or to any
2 applicable law, a solar energy system installed and
3 placed in service on commercial property pursuant to a
4 power purchase agreement, either approved by a
5 decision and order issued by the public utilities
6 commission prior to December 31, 2019, or filed and
7 pending approval by the public utilities commission
8 prior to December 31, 2019, shall continue to receive
9 thirty-five per cent of the actual cost, or \$500,000
10 per solar energy system that has a total output
11 capacity of at least one thousand kilowatts per system
12 of direct current, whichever is less; or

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

16 provided that multiple owners of a single system shall be
17 entitled to a single tax credit; and provided further that the
18 tax credit shall be apportioned between the owners in proportion
19 to their contribution to the cost of the system.

20 In the case of a partnership, S corporation, estate, or
21 trust, the tax credit allowable is for every eligible renewable



1 energy technology system that is installed and placed in service
2 in the State by the entity. The cost upon which the tax credit
3 is computed shall be determined at the entity level.

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

6 (b) The amount of credit allowed for each eligible
7 renewable energy technology system shall not exceed the
8 applicable cap amount, which is determined as follows:

9 (1) If the primary purpose of the solar energy system is
10 to use energy from the sun to heat water for household
11 use, then the cap amounts shall be:

12 (A) \$2,250 per system for single-family residential
13 property;

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

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

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

19 (A) \$5,000 per system for single-family residential
20 property; provided that if all or a portion of
21 the system is used to fulfill the substitute



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

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

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

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

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

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

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

20 (c) For the purposes of this section:



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

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

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

- 13 (1) A usable source of thermal or mechanical energy;
- 14 (2) Electricity; or
- 15 (3) Fuel.

16 "Solar or wind energy system" means any identifiable
17 facility, equipment, apparatus, or the like that converts solar
18 or wind energy to useful thermal or electrical energy for
19 heating, cooling, or reducing the use of other types of energy
20 that are dependent upon fossil fuel for their generation.



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

5 (e) The director of taxation shall prepare any forms that
6 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) 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 (g) or
18 (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) For solar energy systems, a taxpayer may elect to
4 reduce the eligible credit amount by thirty per cent and if this
5 reduced amount exceeds the amount of income tax payment due from
6 the taxpayer, the excess of the credit amount over payments due
7 shall be refunded to the taxpayer; provided that tax credit
8 amounts properly claimed by a taxpayer who has no income tax
9 liability shall be paid to the taxpayer; and 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.

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

18 (h) Notwithstanding subsection (g), for any renewable
19 energy technology system, an individual taxpayer may elect to
20 have any excess of the credit over payments due refunded to the
21 taxpayer, 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 is installed and placed in
17 service. A separate election may be made for each separate
18 system that generates a credit. An election once made is
19 irrevocable.

20 (i) No taxpayer shall be allowed a credit under this
21 section for the portion of the renewable energy technology



1 system required by section 196-6.5 that is installed and placed
2 in service on any newly constructed single-family residential
3 property authorized by a building permit issued on or after
4 January 1, 2010.

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

9 (1) The number of renewable energy technology systems that
10 have qualified for a tax credit during the calendar
11 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 [~~(k) This section shall apply to eligible renewable energy~~
19 ~~technology systems that are installed and placed in service on~~
20 ~~or after July 1, 2009.]"~~



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

3 SECTION 4. This Act shall take effect on July 1, 2050, and
4 shall apply to taxable years beginning after December 31, 2019.



Report Title:

Renewable Energy Technologies Income Tax Credit; Power Purchase Agreements

Description:

Amends the renewable energy technologies income tax credit to clarify that solar energy systems installed and placed in service on commercial property pursuant to a power purchase agreement approved by the Public Utilities Commission prior to 12/31/2019 shall continue to receive 35% of the actual cost or \$500,000 per solar energy system. Repeals the provision of the renewable energy technologies income tax credit that applies the credit to renewable energy technology systems installed and placed in service on or after 7/1/2009. Effective 7/1/2050.
(SD2)

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

