
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 PART I

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

5 "§235- Renewable energy technologies; certification of
6 certain credits; aggregate cap. (a) Taxpayers claiming a
7 credit for commercial non-utility scale solar energy property
8 under section 235-12.5(a)(3) or for wind energy property
9 producing electricity for use in the taxpayer's primary
10 residence under section 235-12.5(a)(6), shall apply for
11 certification of the property from the department of business,
12 economic development, and tourism. This certification must be
13 approved by the department of business, economic development,
14 and tourism prior to the taxpayer claiming a credit under
15 section 235-12.5; provided that no property shall be certified
16 after December 31, 2018.

17 (b) To qualify for certification:



1 (1) A taxpayer under a feed-in tariff shall provide the
2 department of business, economic development, and
3 tourism with a dated copy of utility interconnection
4 costs and a requirements estimate from the applicable
5 electric utility company; and

6 (2) A taxpayer under a power purchase agreement shall
7 provide the department of business, economic
8 development, and tourism with documentation from the
9 public utilities commission demonstrating the
10 commission's approval of the power purchase agreement.

11 Upon the determination that the energy property owned by
12 the taxpayer is suitable for certification, the department of
13 business, economic development, and tourism shall grant
14 qualified status and issue a certificate to the taxpayer.

15 Qualified taxpayers claiming a credit under section 235-12.5
16 shall include this certificate with the taxpayer's tax return
17 for the taxable year in which the credit is claimed.

18 (c) For qualified taxpayers, the department of business,
19 economic development, and tourism shall obtain the following
20 information:

21 (1) The amount of credit claimed; and

22 (2) The date the taxpayer received qualified status.



1 (d) In January of each year, the department of business,
 2 economic development, and tourism shall determine the order in
 3 which credits shall be claimed by contacting qualified taxpayers
 4 in the order of the date the taxpayer received qualified status.
 5 A taxpayer that elects to claim a credit under section 235-
 6 12.5(a)(3) or (a)(6) shall provide the department of business,
 7 economic development, and tourism with reports from the electric
 8 utility company demonstrating the number of kilowatt hours
 9 produced and sold by the taxpayer during the calendar year. A
 10 taxpayer shall not cease to be qualified under this section
 11 solely for electing not to claim a credit under section 235-
 12 12.5(a)(3) or (a)(6).

13 (e) If in any year, the annual aggregate amount of
 14 certified credits for solar energy properties under section 235-
 15 12.5(a)(3) reaches the applicable aggregate cap amount, the
 16 department of business, economic development, and tourism shall
 17 notify the department of taxation and shall carry forward all
 18 certified tax credits in excess of the applicable aggregate cap
 19 amount to the following year. The aggregate cap amount for
 20 solar energy property shall be determined as follows:

21 <u>Calendar Year</u>	<u>Aggregate Cap Amount</u>
22 <u>2013</u>	<u>\$6,000,000</u>



1	<u>2014</u>	<u>\$9,000,000</u>
2	<u>2015</u>	<u>\$12,000,000</u>
3	<u>2016 and beyond</u>	<u>\$13,500,000</u>

4 In no instance shall the total amount of certified credits
5 claimed for solar energy property exceed the applicable
6 aggregate cap amount. Notwithstanding any other law to the
7 contrary, information regarding the credits certified, claimed,
8 and carried forward each year shall be available for public
9 inspection and dissemination under chapter 92F.

10 (f) If in any year, the annual aggregate amount of
11 certified credits for wind energy properties under section 235-
12 12.5(a)(6) reaches the applicable aggregate cap amount, the
13 department of business, economic development, and tourism shall
14 notify the department of taxation and shall carry forward all
15 certified tax credits in excess of the applicable aggregate cap
16 amount to the following year. The aggregate cap amount for wind
17 energy property shall be determined as follows:

18	<u>Calendar Year</u>	<u>Aggregate Cap Amount</u>
19	<u>2013</u>	<u>\$2,000,000</u>
20	<u>2014</u>	<u>\$4,000,000</u>
21	<u>2015</u>	<u>\$6,000,000</u>
22	<u>2016 and beyond</u>	<u>\$10,000,000</u>



1 In no instance shall the total amount of certified credits
2 claimed for wind energy property exceed the applicable aggregate
3 cap amount. Notwithstanding any other law to the contrary,
4 information regarding the credits certified, claimed, and
5 carried forward each year shall be available for public
6 inspection and dissemination under chapter 92F.

7 (g) Notwithstanding the department of business, economic
8 development, and tourism's certification authority under this
9 section, the director of taxation may audit and adjust the
10 certification status of taxpayers claiming a credit under
11 section 235-12.5.

12 (h) Pursuant to chapter 91, the department of business,
13 economic development, and tourism and the department of taxation
14 may take all steps necessary and appropriate to administer this
15 section including by adopting rules for guidelines and
16 requirements to:

- 17 (1) Determine eligibility of qualified taxpayers; and
- 18 (2) Further clarify and streamline the determination
19 process under which taxpayers may claim tax credits in
20 accordance with the aggregate caps provided in
21 subsections (e) and (f)."



1 SECTION 2. 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
10 [~~technology system~~] property that is installed and placed in
11 service in the State by a taxpayer during the taxable year. The
12 tax credit may be claimed as follows:

13 [~~(1) For each solar energy system: thirty five per cent of~~
14 ~~the actual cost or the cap amount determined in~~
15 ~~subsection (b), whichever is less; or~~

16 [~~(2) For each wind powered energy system: twenty per cent~~
17 ~~of the actual cost or the cap amount determined in~~
18 ~~subsection (b), whichever is less;]~~

19 (1) For each solar energy property that produces
20 electricity for residential usage, not including the
21 heating of water, up to an amount not to exceed
22 \$12,500 calculated as follows:



- 1 (A) Thirty per cent of the basis of solar energy
- 2 property installed and placed in service after
- 3 December 31, 2012, but prior to January 1, 2014;
- 4 (B) Twenty-five per cent of the basis of solar energy
- 5 property installed and placed in service after
- 6 December 31, 2013, but prior to January 1, 2015;
- 7 or
- 8 (C) Twenty per cent of the basis of solar energy
- 9 property installed and placed in service on or
- 10 after January 1, 2015;
- 11 (2) For solar energy property that produces water heating
- 12 for residential use: thirty-five per cent of the
- 13 basis of the solar energy property, not to exceed
- 14 \$2,500;
- 15 (3) Subject to the requirements of section 235- , for
- 16 commercial non-utility scale solar energy property, an
- 17 amount not to exceed \$500,000 calculated as follows:
- 18 (A) Thirty per cent of the basis of commercial non-
- 19 utility scale solar energy property installed and
- 20 placed in service after December 31, 2012, but
- 21 prior to January 1, 2014;



- 1 (B) Twenty-five per cent of the basis of commercial
2 non-utility scale solar energy property installed
3 and placed in service after December 31, 2013,
4 but prior to January 1, 2015; or
- 5 (C) Twenty per cent of the basis of commercial non-
6 utility scale solar energy property installed and
7 placed in service on or after January 1, 2015;
- 8 (4) For commercial non-utility scale solar energy property
9 that heats water: thirty-five per cent of the basis
10 of the commercial non-utility scale solar energy
11 property, up to an amount not to exceed \$250,000;
- 12 (5) For utility scale solar energy property installed and
13 placed into service after December 31, 2012: eight
14 cents per kilowatt hour produced during the utility
15 scale solar energy property's first one hundred twenty
16 months of operation;
- 17 (6) Subject to the requirements of section 235- , for
18 non-utility scale wind energy property that produces
19 electricity for use in the primary residence of the
20 taxpayer claiming the credit: twenty per cent of the
21 basis of the wind energy property;



1 (7) For other non-utility scale wind energy property that
2 produces electricity: twenty per cent of the basis of
3 the wind energy property; or

4 (8) For utility scale wind energy property installed and
5 placed into service after December 31, 2012: fifteen
6 cents per kilowatt hour produced and sold to a public
7 utility during the utility scale wind energy
8 property's first one hundred twenty months of
9 operation;

10 provided that multiple owners of [~~a single system~~] an energy
11 property shall be entitled to a single tax credit; and provided
12 further that the tax credit shall be apportioned between the
13 owners in proportion to their contribution to the [~~cost of the~~
14 ~~system.~~] basis of the energy property.

15 In the case of a partnership, S corporation, estate, or
16 trust, the tax credit allowable is for [~~every~~] eligible
17 [~~renewable~~] energy [~~technology system~~] property that is
18 installed and placed in service in the State by the entity. The
19 [~~cost~~] basis upon which the tax credit is computed shall be
20 determined at the entity level. Distribution and share of
21 credit shall be determined pursuant to 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; and~~
2 ~~(3) For all wind powered energy systems, the cap amounts~~
3 ~~shall be:~~
4 ~~(A) \$1,500 per system for single family residential~~
5 ~~property; provided that if all or a portion of~~
6 ~~the system is used to fulfill the substitute~~
7 ~~renewable energy technology requirement pursuant~~
8 ~~to section 196-6.5(a)(3), the credit shall be~~
9 ~~reduced by twenty per cent of the actual system~~
10 ~~cost or \$1,500, whichever is less;~~
11 ~~(B) \$200 per unit per system for multi family~~
12 ~~residential property; and~~
13 ~~(C) \$500,000 per system for commercial property.~~
14 ~~(e)]~~ (b) For the purposes of this section:
15 ~~["Actual cost" means costs related to the renewable energy~~
16 ~~technology systems under subsection (a), including accessories~~
17 ~~and installation, but not including the cost of consumer~~
18 ~~incentive premiums unrelated to the operation of the system or~~
19 ~~offered with the sale of the system and costs for which another~~
20 ~~credit is claimed under this chapter.]~~



1 "Basis" means the cost of installing and placing an energy
2 property in service, including the cost of any accessories. The
3 following are not included in the definition of basis:

- 4 (1) Premiums unrelated to the operation of energy
5 property;
- 6 (2) Premiums offered with the sale of energy property; and
- 7 (3) Costs incurred for the repair, construction, or
8 reconstruction of buildings or structures associated
9 with the installation or placing in service of energy
10 property.

11 "Commercial non-utility scale" means energy produced for a
12 business that does not include leased or rented residences where
13 the producing entity is not connected to a utility grid at sub-
14 transmission or transmission voltage.

15 "Energy property" means new tangible property that captures
16 and converts a renewable source of energy into:

- 17 (1) A usable source of thermal or mechanical energy;
- 18 (2) Electricity; or
- 19 (3) Fuel

20 Energy property includes solar energy and wind energy
21 property, including any identifiable facility, equipment,
22 apparatus, or the like that converts solar or wind energy to



1 useful thermal or electrical energy for heating, cooling, or
2 reducing the use of other types of energy that are dependent
3 upon fossil fuel for their generation.

4 ~~["Household use" means any use to which heated water is~~
5 ~~commonly put in a residential setting, including commercial~~
6 ~~application of those uses.~~

7 ~~"Renewable energy technology system" means a new system~~
8 ~~that captures and converts a renewable source of energy, such as~~
9 ~~solar or wind energy, into:~~

- 10 ~~(1) A usable source of thermal or mechanical energy;~~
- 11 ~~(2) Electricity; or~~
- 12 ~~(3) Fuel.]~~

13 "Residential use" means energy produced for real property
14 used as a dwelling, including leased property, primary
15 residences, and rental units.

16 "Sub-transmission or transmission voltage" means the
17 applicable primary, transmission, or sub-transmission voltage
18 level filed by the appropriate electric utility and deemed as
19 nominal by the public utilities commission, allowing, however,
20 for acceptable variations in voltage levels as defined by the
21 public utilities commission.



1 ~~["Solar or wind energy system" means any identifiable~~
 2 ~~facility, equipment, apparatus, or the like that converts solar~~
 3 ~~or wind energy to useful thermal or electrical energy for~~
 4 ~~heating, cooling, or reducing the use of other types of energy~~
 5 ~~that are dependent upon fossil fuel for their generation.]~~

6 "Utility scale" means solar or wind energy property that
 7 is:

- 8 (1) Designed, installed, and placed into service to
 9 produce electricity;
- 10 (2) Interconnected to a utility grid at sub-transmission
 11 or transmission voltage; and
- 12 (3) Subject to a feed-in tariff or power purchase
 13 agreement approved by the public utilities commission.

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

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

22 The director may also require the taxpayer to furnish reasonable



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

15 ~~[(g)]~~ (f) For solar energy ~~[systems]~~ property used for
16 residential or commercial purposes, but not including utility
17 scale solar energy property, a taxpayer may elect to reduce the
18 eligible credit amount by thirty per cent and if this reduced
19 amount exceeds the amount of income tax payment due from the
20 taxpayer, the excess of the credit amount over payments due
21 shall be refunded to the taxpayer; provided that tax credit
22 amounts properly claimed by a taxpayer who has no income tax



1 liability shall be paid to the taxpayer; and provided further
2 that no refund on account of the tax credit allowed by this
3 section shall be made for amounts less than \$1.

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

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

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

19 provided that tax credits properly claimed by a taxpayer who has
20 no income tax liability shall be paid to the taxpayer; and
21 provided further that no refund on account of the tax credit
22 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]~~ energy property is
8 installed and placed in service. ~~[A separate election may be
9 made for each separate system that generates a credit.]~~ An
10 election once made is irrevocable.

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

17 (j) The basis of eligible energy property for the purpose
18 of depreciation and disposition of the energy property shall be
19 reduced by fifty per cent of the amount of credit allowable and
20 claimed under this section.

21 ~~[(j)]~~ (k) ~~[To the extent feasible, using existing resources~~
22 ~~to]~~ To assist the energy-efficiency policy review and



1 evaluation, the department shall assist with data collection on
2 the following for each taxable year:

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

6 (A) Technology type; and

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

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

10 (A) Technology type; and

11 (B) Taxpayer type.

12 (1) In addition to the information in subsection (j), the
13 department of business, economic development, and tourism shall
14 also take the following steps as to taxpayer data:

15 (1) Verify the number of kilowatt hours produced and sold
16 by each taxpayer during each calendar year;

17 (2) Total all tax credits that the department of business,
18 economic development, and tourism certifies pursuant
19 to this section; and

20 (3) Compile the total amounts of tax credits taken under
21 this section for each taxable year and the cumulative



1 SECTION 6. This Act shall take effect upon its approval;
2 provided that sections 1 and 2 shall apply to taxable years
3 beginning after December 31, 2012.

4

INTRODUCED BY: 

JAN 24 2013



H.B. NO. 1408

Report Title:

Renewable Energy Technologies Tax Credit Rates

Description:

Provides tax credit rates and certification requirements for various renewable energy technologies. Requires an annual report from Department of Taxation and a 2017 study from the Department of Business, Economic Development and Tourism.

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