

JAN 23 2009

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 by amending subsection (b) to read as follows:

3 "(b) For the purposes of this section:

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

10 "Corporate taxpayer" shall include a condominium
11 association and its members.

12 "Renewable energy technology system" means a new system
13 that captures and converts a renewable source of energy, such as
14 wind, heat (solar thermal), or light (photovoltaic) from the sun
15 into:

16 (1) A usable source of thermal or mechanical energy;

17 (2) Electricity; or



1 (3) Fuel.

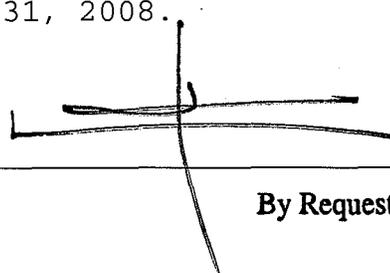
2 "Solar or wind energy system" means any identifiable
3 facility, equipment, apparatus, or the like that converts
4 insolation or wind energy to useful thermal or electrical energy
5 for heating, cooling, or reducing the use of other types of
6 energy that are dependent upon fossil fuel for their
7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

8 SECTION 2. New statutory material is underscored.

9 SECTION 3. This Act, upon its approval, shall apply to
10 taxable years beginning after December 31, 2008.

11

INTRODUCED BY: _____

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By Request



Report Title:

Tax Credit; Renewable Energy; Condominium Association

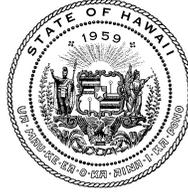
Description:

Clarifies that the renewable energy tax credit applies to condominium associations and its members.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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**SENATE COMMITTEES ON COMMERCE & CONSUMER PROTECTION AND
ENERGY & ENVIRONMENT
TESTIMONY REGARDING SB 77
RELATING TO TAXATION**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 5, 2009

TIME: 2:45PM

ROOM: 225

This measure adds a definition of "corporate taxpayer" to the renewable energy technologies tax credit.

The Department of Taxation (Department) **opposes** this measure.

AMENDMENT DOES NOT SOLVE THE PERCEIVED PROBLEM WITH NONPROFIT CONDO ASSOCIATIONS—The Department understands that an issue exists with condo associations not being entitled to claim the nonrefundable renewable energy technologies tax credit. The reason many associations do not qualify for the credit is because the associations are nonprofit entities that are not subject to income tax, thus a nonrefundable tax credit does not help them. Furthermore, in such a situation the owners do not get to claim the credit if the system is purchased by the association and owned by the association. The language in the bill does not solve the problem.

In short, the Department does not believe that this amendment will correct the perceived issue trying to be solved by this legislation. There are current tax planning strategies available to condominiums, their associations, and their owners to capture the tax credits provided for renewable energy technologies.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Renewable energy system tax credits

BILL NUMBER: SB 77

INTRODUCED BY: Hanabusa by request

BRIEF SUMMARY: Amends HRS section 235-12.5 to add a definition of "corporate taxpayer" to include a condominium association and its members.

EFFECTIVE DATE: Tax years beginning after December 31, 2008

STAFF COMMENTS: While it appears that this measure is proposed to enable a condominium association and its members to claim the state renewable energy tax credits, in the case of a multi-unit building, the cost of the purchase and installation of a renewable energy system would be apportioned to each of the unit owners who, in turn, would be able to claim a portion of the state renewable energy tax credits.

For example, if a condominium association of a multi-unit building installs a solar water heating system and receives a tax credit of \$25,000 and that particular building has 25 units, each unit would be eligible to claim a credit of \$1,000. The credit would be available regardless of whether the condominium association is a corporate taxpayer, making this measure unnecessary.

Digested 2/5/09