

JAN 23 2009

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is amended to read as follows:

"§235-12.5 Renewable energy technologies; income tax credit. (a) When the requirements of subsection (c) are met, each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year. This credit shall be available for systems installed and placed in service in the State after June 30, 2003. The tax credit may be claimed as follows:

(1) Solar thermal energy systems for:

(A) Single-family residential property for which a building permit was issued prior to January 1,



1 2010: thirty-five per cent of the actual cost or
2 \$2,250, whichever is less;

3 (B) Multi-family residential property: thirty-five
4 per cent of the actual cost or \$350 per unit,
5 whichever is less; and

6 (C) Commercial property: thirty-five per cent of the
7 actual cost or \$250,000, whichever is less;

8 (2) Wind-powered energy systems for:

9 (A) Single-family residential property: twenty per
10 cent of the actual cost or \$1,500, whichever is
11 less;

12 (B) Multi-family residential property: twenty per
13 cent of the actual cost or \$200 per unit,
14 whichever is less; and

15 (C) Commercial property: twenty per cent of the
16 actual cost or \$500,000, whichever is less; and

17 (3) Photovoltaic energy systems for:

18 (A) Single-family residential property: thirty-five
19 per cent of the actual cost or \$5,000, whichever
20 is less;



1 (B) Multi-family residential property: thirty-five
2 per cent of the actual cost or \$350 per unit,
3 whichever is less; and

4 (C) Commercial property: thirty-five per cent of the
5 actual cost or \$500,000, whichever is less;

6 provided that multiple owners of a single system shall be
7 entitled to a single tax credit; and provided further that the
8 tax credit shall be apportioned between the owners in proportion
9 to their contribution to the cost of the system.

10 In the case of a partnership, S corporation, estate, or
11 trust, the tax credit allowable is for every eligible renewable
12 energy technology system that is installed and placed in service
13 in the State by the entity. The cost upon which the tax credit
14 is computed shall be determined at the entity level.

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

17 (b) For the purposes of this section:

18 "Actual cost" means costs related to the renewable energy
19 technology systems under subsection (a), including accessories
20 and installation, but not including the cost of consumer
21 incentive premiums unrelated to the operation of the system or



1 offered with the sale of the system and costs for which another
2 credit is claimed under this chapter.

3 "Renewable energy technology system" means a new system
4 that captures and converts a renewable source of energy, such as
5 wind, heat (solar thermal), or light (photovoltaic) from the sun
6 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
12 insolation or wind energy to useful thermal or electrical energy
13 for heating, cooling, or reducing the use of other types of
14 energy that are dependent upon fossil fuel for their generation.

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

19 (d) For taxable years beginning after December 31, 2008,
20 other than for a taxpayer described in subsection (h), a
21 taxpayer may claim the tax credit described under subsection
22 (a) (3) (A) if the photovoltaic energy system is purchased,



1 installed, and placed in service in the State by the taxpayer
2 during the taxable year and the tax credit may be transferred
3 and sold at a discount to another taxpayer who is not prohibited
4 from claiming the credit under subsection (h).

5 ~~[(d)]~~ (e) 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 thermal,
9 photovoltaic from the sun, or wind. The director may also
10 require the taxpayer to furnish reasonable information to
11 ascertain the validity of the claim for credit made under this
12 section and may adopt rules necessary to effectuate the purposes
13 of this section pursuant to chapter 91.

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



1 ~~[(f)]~~ (g) By or before December, 2005, to the extent
2 feasible, using existing resources to assist the energy-
3 efficiency policy review and evaluation, the department shall
4 assist with data collection on the following:

5 (1) The number of renewable energy technology systems that
6 have qualified for a tax credit during the past year
7 by:

8 (A) Technology type (solar thermal, photovoltaic from
9 the sun, and wind); and

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

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

13 (A) Technology type; and

14 (B) Taxpayer type.

15 ~~[(g)]~~ (h) For systems installed and placed in service in
16 2009, no residential home developer shall be entitled to claim
17 the credit under subsections (a)(1)(A) ~~[7]~~ and (a)(2)(A) ~~[, and~~
18 ~~(a)(3)(A)]~~. A residential home developer is defined as a person
19 who holds more than one residential dwelling for sale as
20 inventory."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



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

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Report Title:

Tax Credits; Photovoltaic Systems; Transferability; Discount Sales

Description:

Promotes and encourages the use of renewable energy systems by allowing the income tax credits from photovoltaic energy systems that are purchased, installed, and placed in service in the State during the taxable year to be transferred and sold at a discount to another taxpayer.

