

JAN 20 2016

S.B. NO. 2009

A BILL FOR AN ACT

RELATING TO UTILITIES.

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

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

4 "§235- Tax credit for sub-metering of electricity and
5 water utilities. (a) There shall be allowed to each taxpayer,
6 subject to the taxes imposed by this chapter, a tax credit for
7 the costs of retrofitting or modifying a structure to enable
8 sub-metering of electricity and water utilities in
9 nonresidential and residential condominium units. The tax
10 credit shall be deductible from the taxpayer's net income tax
11 liability, if any, imposed by this chapter for the taxable year
12 in which the credit is properly claimed. The amount of the tax
13 credit claimed under this section by the taxpayer in all years
14 for which the credit is available shall be limited to per
15 cent of the cost of sub-metering electricity and water
16 utilities; provided that the costs shall not exceed \$



1 in the aggregate for each unit; and that the costs are incurred
2 before January 1, 2020.

3 In the case of a partnership, S corporation, estate, trust,
4 or association of apartment owners, the tax credit allowable is
5 for the cost of sub-metering electricity and water incurred by
6 the entity for the taxable year. The cost upon which the tax
7 credit is computed shall be determined at the entity level.

8 Distribution and share of credit shall be determined pursuant to
9 section 704(b) of the Internal Revenue Code, as amended.

10 If a deduction is taken under section 179 (with respect to
11 election to expense depreciable business assets) of the Internal
12 Revenue Code, no tax credit shall be allowed for that portion of
13 the cost of sub-metering electricity and water for which the
14 deduction is taken.

15 The basis of eligible property for depreciation or
16 accelerated cost recovery system purposes for state income taxes
17 shall be reduced by the amount of credit allowable and claimed.
18 In the alternative, the taxpayer shall treat the amount of the
19 credit allowable and claimed as a taxable income item for the
20 taxable year in which it is properly recognized under the method
21 of accounting used to compute taxable income.



1 (b) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted. All claims,
5 including amended claims, for a tax credit under this section
6 shall be filed on or before the end of the twelfth month
7 following the close of the taxable year for which the credit may
8 be claimed. Failure to comply with the foregoing provision
9 shall constitute a waiver of the right to claim the credit.

10 (c) The director of taxation shall prepare any forms that
11 may be necessary to claim a credit under this section. The
12 director may also require the taxpayer to furnish information to
13 ascertain the validity of the claim for credit made under this
14 section and may adopt rules necessary to effectuate the purposes
15 of this section pursuant to chapter 91.

16 (d) The tax credit allowed under this section shall be
17 available for taxable years beginning after December 31, 2015,
18 and shall not be available for taxable years beginning after
19 December 31, 2019.



1 (e) To qualify for the income tax credit, the taxpayer
2 shall be in compliance with all applicable federal, state, and
3 county statutes, rules, and regulations.

4 (f) As used in this section:

5 "Cost of sub-metering electricity and water" means any
6 costs incurred after December 31, 2015, for plans, design,
7 construction, and equipment related to sub-metering electricity
8 and water utilities in nonresidential and residential
9 condominium units in condominium projects.

10 "Net income tax liability" means income tax liability
11 reduced by all other credits allowed under this chapter."

12 SECTION 2. Chapter 514B, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§514B- Sub-metering of utilities. (a) All condominium
16 projects, the construction of which commences on or after
17 July 1, 2016, shall have a separate meter, or calculations shall
18 be made, or both, to determine the use by each unit of
19 electricity and water. Each unit in a condominium project may
20 have a separate meter or calculations made to determine the use



1 by that unit of other utilities, including gas, fuel, oil,
2 sewerage, and drainage.

3 (b) Notwithstanding any provision to the contrary in this
4 chapter or in a project's declaration or bylaws of an
5 association of unit owners, the board of directors of any
6 association of condominium owners shall authorize the
7 installation by January 1, 2020, of separate meters to determine
8 the use of electricity and water by each of the units and may
9 authorize the installation of separate meters to determine the
10 use by each unit of other utilities, including gas, fuel, oil,
11 sewerage, and drainage; provided that the cost of installing the
12 meters shall be paid by the association.

13 (c) Any person or entity who violates or fails to comply
14 with this section shall be punished by a fine not exceeding
15 \$. Each violation shall constitute a separate
16 offense."

17 SECTION 3. Section 514A-15.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§514A-15.5 Metering of utilities~~[-]~~ in mixed-use projects**
20 **and other projects.** (a) Notwithstanding the provisions of
21 section 514A-15, commercial apartments in mixed-use projects



1 containing apartments for both residential and commercial use,
2 the construction of which commences on or after July 1, 2016,
3 shall have a separate meter, or calculations shall be made, or
4 both, to determine the use by the commercial apartments of
5 utilities, including electricity, water, gas, fuel, oil,
6 sewerage, and drainage, and the cost of the utilities shall be
7 paid by the owners of the commercial units; provided that the
8 apportionment of the charges among owners of commercial
9 apartments shall be done in a fair and equitable manner as set
10 forth in the declaration or bylaws. Notwithstanding section
11 514A-15 to the contrary, each residential apartment in a mixed-
12 use project shall have a separate meter to determine the use of
13 electricity and water by that apartment, and each residential
14 apartment may have a separate meter or calculations made to
15 determine the use by that apartment of other utilities,
16 including gas, fuel oil, sewerage, and drainage.

17 (b) Notwithstanding any provision to the contrary in this
18 chapter or in a project's declaration or bylaws of an
19 association of apartment owners, the board of directors [~~may~~] of
20 a mixed-use project shall authorize the installation by
21 January 1, 2020, of separate meters to determine the use of



1 electricity and water by each of the residential and commercial
2 apartments and may authorize the installation of separate meters
3 to determine the use by each of the residential and commercial
4 apartments of other utilities, including [~~electricity, water,~~]
5 gas, fuel, oil, sewerage, and drainage; provided that the cost
6 of installing the meters shall be paid by the association.

7 [~~(b)~~] (c) Notwithstanding any approval requirements and
8 spending limits contained in the declaration or bylaws of an
9 association of apartment owners, the board of directors of any
10 association of apartment owners [~~may~~] shall authorize the
11 installation by January 1, 2020, of meters to determine the use
12 of electricity and water by each residential or commercial
13 apartment and may authorize the installation of meters to
14 determine the use by each apartment of other utilities,
15 including [~~electricity, water,~~] gas, fuel, oil, sewerage, and
16 drainage; provided that the cost of installing the meters shall
17 be paid by the association. The cost of metered utilities shall
18 be paid by the owners of each apartment based on actual
19 consumption and may be collected in the same manner as common
20 expense assessments. Owners' maintenance fees shall be adjusted



1 as necessary to avoid any duplication of charges to these owners
2 for the cost of metered utilities.

3 (d) Any person or entity who violates or fails to comply
4 with this section shall be punished by a fine not exceeding
5 \$. Each violation shall constitute a separate
6 offense."

7 SECTION 4. Section 514B-42, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§514B-42 Metering of utilities[-] in mixed-use projects**
10 **and other projects.** (a) Units in a project that includes units
11 designated for both residential and nonresidential use, the
12 construction of which commences on or after July 1, 2016, shall
13 have separate meters, or calculations shall be made, or both, as
14 may be practicable, to determine the use by the nonresidential
15 units of utilities, including electricity, water, gas, fuel,
16 oil, sewerage, air conditioning, chiller water, and drainage,
17 and the cost of the utilities shall be paid by the owners of the
18 nonresidential units; provided that the apportionment of the
19 charges among owners of nonresidential units shall be done in a
20 fair and equitable manner as set forth in the declaration or
21 bylaws. Each residential unit in a project that includes



1 residential and nonresidential units shall have a separate meter
2 to determine the use of electricity and water by that unit and
3 may have a separate meter to determine the use by that unit of
4 other utilities, including gas, fuel, oil, sewerage, and
5 drainage.

6 (b) Notwithstanding any provision to the contrary in this
7 chapter or in a project's declaration or bylaws, the board ~~[may]~~
8 shall authorize the installation by January 1, 2020, of separate
9 meters to determine the use of electricity and water by each of
10 the residential and commercial units and may authorize the
11 installation of separate meters to determine the use by each of
12 the units of other utilities, including ~~[electricity, water,]~~
13 gas, fuel, oil, sewerage, and drainage; provided that the cost
14 of installing the meters shall be paid by the association.

15 ~~[(b)]~~ (c) Notwithstanding any approval requirements and
16 spending limits contained in a project's declaration or bylaws,
17 the board of any association ~~[may]~~ shall authorize the
18 installation by January 1, 2020, of meters to determine the use
19 of electricity and water by each individual unit and may
20 authorize the installation of meters to determine the use of
21 other utilities, including ~~[electricity, water,]~~ gas, fuel, oil,



sewerage, [~~air conditioning, chiller water,~~] and drainage;
 provided that the cost of installing the meters shall be paid by
 the association. The cost of metered utilities shall be paid by
 the owners of each unit based on actual consumption and, to the
 extent not billed directly to the unit owner by the utility
 provider, may be collected in the same manner as common expense
 assessments. Owners' maintenance fees shall be adjusted as
 necessary to avoid any duplication of charges to owners for the
 cost of metered utilities.

(d) Any person or entity who violates or fails to comply
with this section shall be punished by a fine not exceeding
\$. Each violation shall constitute a separate
offense."

SECTION 5. Statutory material to be repealed is bracketed
 and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2016, and
 shall apply to taxable years beginning after December 31, 2015.

INTRODUCED BY:

Shiranne Chun Oakland

Yvonne J. J.

[Signature]

James Hernandez K.

Will Espino

Russell E. Barker



S.B. NO. 2009

Report Title:

Condominiums; Metering of Electricity and Water; Sub-metering;
Tax Credit

Description:

Requires condominium projects constructed on or after July 1, 2016, to have separate metering for electricity and water. Requires authorization for separate electricity and water utility metering of nonresidential and residential condominium units in all condominium projects by January 1, 2020. Provides a tax credit for modifying existing buildings to comply with the mandate.

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

