
A BILL FOR AN ACT

RELATING TO TAXATION.

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- Renewable fuels production tax credit. (a)
5 Each year during the credit period there shall be allowed to
6 each taxpayer subject to the taxes imposed by this chapter a
7 renewable fuels production tax credit that shall be applied to
8 the taxpayer's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which the credit is properly
10 claimed.
11 For each taxpayer producing renewable fuels, the annual
12 dollar amount of the renewable fuels production tax credit
13 during the ten-year credit period shall be equal to 20 cents per
14 seventy-six thousand British thermal units of renewable fuels
15 using the lower heating value produced for distribution in the
16 State; provided that the taxpayer's production of renewable
17 fuels is not less than fifteen billion British thermal units of



1 renewable fuels per year; provided further that the amount of
2 the tax credit claimed under this section by a taxpayer shall
3 not exceed \$3,000,000 per taxable year. No other tax credit may
4 be claimed under this chapter for the costs related to renewable
5 fuels production that are used to properly claim a tax credit
6 under this section for the taxable year.

7 (b) The Hawaii state energy office shall:

8 (1) Verify the amount and type of renewable fuels
9 produced, including the purpose for which the fuel was
10 produced;

11 (2) Total all renewable fuels production that the Hawaii
12 state energy office certifies for purposes of
13 paragraph (3);

14 (3) Certify the total amount of the tax credit for each
15 taxable year and the cumulative amount of the tax
16 credit during the credit period; and

17 (4) Certify that the renewable fuels produced have life
18 cycle emissions substantially below that of fossil
19 fuels.

20 Upon each determination, the Hawaii state energy office
21 shall issue a certificate to the taxpayer verifying the amount



1 of renewable fuels produced, the credit amount certified for
2 each taxable year, and the cumulative amount of the tax credit
3 during the credit period. The taxpayer shall file the
4 certificate with the taxpayer's tax return with the department
5 of taxation. Notwithstanding the Hawaii state energy office's
6 certification authority under this section, the director of
7 taxation may audit and adjust the certification to conform to
8 the facts.

9 If in any year, the annual amount of certified credits
10 reaches \$6,000,000 in the aggregate, the Hawaii state energy
11 office shall immediately discontinue certifying credits and
12 notify the department of taxation. In no instance shall the
13 total amount of certified credits exceed \$6,000,000 per year.
14 Notwithstanding any other law to the contrary, the verification
15 and certification information compiled by the Hawaii state
16 energy office shall be available for public inspection and
17 dissemination under chapter 92F.

18 (c) If the credit under this section exceeds the
19 taxpayer's net income tax liability, the excess of the credit
20 over liability may be used as a credit against the taxpayer's
21 net income tax liability in subsequent years until exhausted.



1 All claims for a credit under this section shall be properly
2 filed on or before the end of the twelfth month following the
3 close of the taxable year for which the credit may be claimed.
4 Failure to comply with the foregoing provision shall constitute
5 a waiver of the right to claim the credit.

6 (d) Prior to production of any renewable fuels for the
7 year, the taxpayer shall provide written notice of the
8 taxpayer's intention to begin production of renewable fuels.
9 The information shall be provided to the department of taxation
10 and the Hawaii state energy office on forms provided by the
11 Hawaii state energy office and shall include information on the
12 taxpayer, facility location, facility production capacity,
13 anticipated production start day, and taxpayer's contact
14 information. Notwithstanding any other law to the contrary, the
15 taxpayer and facility information shall be available for public
16 inspection and dissemination under chapter 92F.

17 (e) The taxpayer shall provide written notice to the
18 director of taxation and the chief energy officer of the Hawaii
19 state energy office within thirty days following the start of
20 production of any renewable fuels. The notice shall include the
21 production start date and expected renewable fuels production



1 for the next twelve months. Notwithstanding any other law to
2 the contrary, this production information shall be available for
3 public inspection and dissemination under chapter 92F.

4 (f) Each calendar year during the credit period, the
5 taxpayer shall provide information to the chief energy officer
6 of the Hawaii state energy office on:

7 (1) The number of British thermal units of renewable fuels
8 produced and sold during the previous calendar year;

9 (2) The type of fuels produced;

10 (3) Renewable feedstocks used for renewable fuels
11 production;

12 (4) The number of employees of the facility and each
13 employee's state of residency; and

14 (5) The projected number of British thermal units of
15 renewable fuels production for the succeeding year.

16 (g) In the case of a partnership, S corporation, estate,
17 or trust, distribution and share of the renewable fuels
18 production tax credit shall be determined pursuant to section
19 704(b) of the Internal Revenue Code, with respect to a partner's
20 distributive share.



1 (h) Following each year in which a credit under this
2 section has been claimed, the chief energy officer of the Hawaii
3 state energy office shall submit a written report to the
4 governor and legislature regarding the production and sale of
5 renewable fuels. The report shall include:

6 (1) The number, location, and production of renewable
7 fuels production facilities in the State and outside
8 the State that have claimed a credit under this
9 section;

10 (2) The total number of British thermal units of renewable
11 fuels, itemized by type of fuel produced and sold
12 during the previous year; and

13 (3) The projected number of British thermal units of
14 renewable fuels production for the succeeding year.

15 (i) The director of taxation shall prepare forms that may
16 be necessary to claim a credit under this section. The director
17 of taxation may require the taxpayer to furnish information to
18 ascertain the validity of the claim for credit made under this
19 section and may adopt rules, pursuant to chapter 91, necessary
20 to effectuate the purposes of this section.



1 (j) Each taxpayer, together with all of its related
2 entities (as determined under Internal Revenue Code section
3 267(b)) and all business entities under common control (as
4 determined under Internal Revenue Code sections 414(b), 414(c),
5 and 1563(a)), shall not be eligible for more than a single ten-
6 year credit period.

7 (k) As used in this section:

8 "Credit period" means a maximum period of ten consecutive
9 years, beginning from the first taxable year in which a taxpayer
10 begins renewable fuels production at a level of at least fifteen
11 billion British thermal units of renewable fuels per year.

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

14 "Renewable feedstocks" means:

15 (1) Biomass crops;

16 (2) Agricultural residue;

17 (3) Oil crops, including but not limited to algae, canola,
18 jatropha, palm, soybean, and sunflower;

19 (4) Sugar and starch crops, including but not limited to
20 sugar cane and cassava;

21 (5) Other agricultural crops;



- 1 (6) Grease and waste cooking oil;
2 (7) Food wastes;
3 (8) Municipal solid wastes and industrial wastes;
4 (9) Water; and
5 (10) Animal residues and wastes that can be used to
6 generate energy.

7 "Renewable fuels" means fuels produced from renewable
8 feedstocks; provided that:

- 9 (1) The fuels shall be sold as a fuel; and
10 (2) The fuels meet the relevant ASTM International
11 specifications for the particular fuel or other
12 industry specification for the particular fuel or
13 other industry specifications for liquid or gaseous
14 fuels, including but not limited to:
15 (A) Methanol, ethanol, or other alcohols;
16 (B) Hydrogen;
17 (C) Biodiesel or renewable diesel;
18 (D) Biogas;
19 (E) Other biofuels; or
20 (F) Renewable jet fuel or renewable gasoline."

21 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2100.

2



H.B. NO. 1809 H.D. 2

Report Title:

Renewable Fuels Production; Income Tax Credit

Description:

Establishes a renewable fuels production tax credit. Effective 7/1/2100. (HD2)

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