

JAN 21 2022

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) Each
5 year during the credit period there shall be allowed to each
6 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 twenty cents
14 per seventy-six thousand British thermal units of renewable
15 fuels using the lower heating value produced for distribution in
16 the 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 department of business, economic development, and
8 tourism shall:

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

12 (2) Total all renewable fuels production that the
13 department of business, economic development, and
14 tourism certifies for purposes of paragraph (3); and

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

18 Upon each determination, the department of business,
19 economic development, and tourism shall issue a certificate to
20 the taxpayer verifying the amount of the renewable fuels
21 produced, the credit amount certified for each taxable year, and



1 the cumulative amount of the tax credit during the credit
2 period. The taxpayer shall file the certificate with the
3 taxpayer's tax return with the department of taxation.
4 Notwithstanding the department of business, economic
5 development, and tourism's certification authority under this
6 section, the director of taxation may audit and adjust the
7 certification to conform to the facts.

8 If in any year, the annual amount of certified credits
9 reaches \$6,000,000 in the aggregate, the department of business,
10 economic development, and tourism shall immediately discontinue
11 certifying credits and notify the department of taxation. In no
12 instance shall the total amount of certified credits exceed
13 \$6,000,000 per year. Notwithstanding any other law to the
14 contrary, the verification and certification information
15 compiled by the department of business, economic development,
16 and tourism 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 department of business, economic development, and
11 tourism on forms provided by the department of business,
12 economic development, and tourism, and shall include information
13 on the taxpayer, facility location, facility production
14 capacity, anticipated production start day, and taxpayer's
15 contact information. Notwithstanding any other law to the
16 contrary, this taxpayer and facility information shall be
17 available for public inspection and dissemination under chapter
18 92F.

19 (e) The taxpayer shall provide written notice to the
20 director of taxation and the director of business, economic
21 development, and tourism within thirty days following the start



1 of production. The notice shall include the production start
2 date and expected renewable fuels production for the next twelve
3 months. Notwithstanding any other law to the contrary, this
4 production information shall be available for public inspection
5 and dissemination under chapter 92F.

6 (f) Each calendar year during the credit period, the
7 taxpayer shall provide information to the director of business,
8 economic development, and tourism on:

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

11 (2) The type of fuels;

12 (3) Feedstocks used for renewable fuels production;

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

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

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



1 (h) Following each year in which a credit under this
2 section has been claimed, the director of business, economic
3 development, and tourism 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 necessary to effectuate the purposes
20 of this section pursuant to chapter 91.

21 (j) As used in this section:



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

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

7 "Renewable feedstocks" means:

- 8 (1) Biomass crops;
- 9 (2) Agricultural residue;
- 10 (3) Oil crops, including but not limited to algae, canola,
11 jatropha, palm, soybean, and sunflower;
- 12 (4) Sugar and starch crops, including but not limited to
13 sugar cane and cassava;
- 14 (5) Other agricultural crops;
- 15 (6) Grease and waste cooking oil;
- 16 (7) Food wastes;
- 17 (8) Municipal solid wastes and industrial wastes;
- 18 (9) Water; and
- 19 (10) Animal residues and wastes that can be used to
20 generate energy.



1 "Renewable fuels" means fuels produced from renewable
2 feedstocks; provided that:

3 (1) The fuels shall be sold as a fuel; and

4 (2) The fuels meet the relevant ASTM International
5 specifications for the particular fuel or other
6 industry specification for the particular fuel or
7 other industry specifications for liquid or gaseous
8 fuels, including but not limited to:

9 (A) Methanol, ethanol, or other alcohols;

10 (B) Hydrogen;

11 (C) Biodiesel or renewable diesel;

12 (D) Biogas;

13 (E) Other biofuels; or

14 (F) Renewable jet fuel or renewable gasoline."

15 SECTION 2. New statutory material is underscored.

16 SECTION 3. This Act shall take effect on July 1, 2022.

17

INTRODUCED BY: _____



By Request



S.B. NO. 2434

Report Title:

Renewable Fuels Production; Income Tax Credit

Description:

Establishes a renewable fuels production tax credit.

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