

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 2008*

Short Title: Modify Renewable Energy Property Credit. (Public)

Sponsors: Representatives Harrison, Bryant, Gill (Primary Sponsors); M. Alexander,
Cotham, Faison, Fisher, Glazier, Goodwin, Heagarty, Hughes, Insko, Jackson,
Lucas, Mobley, Rapp, Ross, Underhill, and Wray.

Referred to: Energy and Energy Efficiency, if favorable, Finance.

May 26, 2010

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CREDIT FOR INVESTING IN RENEWABLE ENERGY
PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.16A reads as rewritten:

"§ 105-129.16A. Credit for investing in renewable energy property.

(a) Credit. – If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service.

(b) Expiration. – If, in one of the years in which the installment of a credit accrues, the renewable energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds.

(c) Ceilings. – The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

(1) Nonresidential Property. – A ceiling of two million five hundred thousand dollars (\$2,500,000) per installation applies to renewable energy property placed in service for any purpose other than residential.

(2) Residential Property. – The following ceilings apply to renewable energy property placed in service for residential purposes:

a. One thousand four hundred dollars (\$1,400) per dwelling unit for solar energy equipment for domestic water heating, including pool heating.

b. Three thousand five hundred dollars (\$3,500) per dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating.



- 1 c. Ten thousand five hundred dollars (\$10,500) per installation for any
2 other renewable energy property for residential purposes.
3 d. Eight thousand four hundred dollars (\$8,400) per installation for a
4 geothermal heat pump or geothermal equipment.

5 (d) No Double Credit. – A taxpayer that claims any other credit allowed under this
6 Chapter with respect to renewable energy property may not take the credit allowed in this
7 section with respect to the same property. A taxpayer may not take the credit allowed in this
8 section for renewable energy property the taxpayer leases from another unless the taxpayer
9 obtains the lessor's written certification that the lessor will not claim a credit under this Chapter
10 with respect to the property.

11 (e) ~~Sunset. — This section is repealed effective for renewable energy property placed~~
12 ~~into service on or after January 1, 2016.~~

13 (f) Allocation. – Notwithstanding the provisions of G.S.105-131.8 and
14 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may
15 allocate the credit among any of its owners in its discretion as long as an owner's adjusted basis
16 in the pass-through entity, as determined under the Code, at the end of the taxable year in
17 which the eligible site is placed in service, is at least forty percent (40%) of the amount of
18 credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if
19 they had qualified for the credit directly. A pass-through entity and its owners must include
20 with their tax returns for every taxable year in which an allocated credit is claimed a statement
21 of the allocation made by the pass-through entity and the allocation that would have been
22 required under G.S. 105-131.8 or G.S. 105-269.15.

23 (g) Forfeiture for Change in Ownership. – If an owner of a pass-through entity that has
24 qualified for the credit allowed under this section disposes of all or a portion of the owner's
25 interest in the pass-through entity within five years from the date the eligible site is placed in
26 service and the owner's interest in the pass-through entity is reduced to less than two-thirds of
27 the owner's interest in the pass-through entity at the time the eligible site was placed in service,
28 the owner forfeits a portion of the credit. The amount forfeited is determined by multiplying the
29 amount of credit by the percentage reduction in ownership and then multiplying that product by
30 the forfeiture percentage. The forfeiture percentage equals the recapture percentage found in the
31 table in section 50(a)(1)(B) of the Code.

32 (h) Exceptions to Forfeiture. – Forfeiture as provided in subsection (c) of this section is
33 not required if the change in ownership is the result of any of the following:

34 (1) The death of the owner.

35 (2) A merger, consolidation, or similar transaction requiring approval by the
36 shareholders, partners, or members of the taxpayer under applicable State
37 law, to the extent the taxpayer does not receive cash or tangible property in
38 the merger, consolidation, or other similar transaction.

39 (i) Liability from Forfeiture. – A taxpayer or an owner of a pass-through entity that
40 forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus
41 interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would
42 have been due if the credit had not been allowed. The past taxes and interest are due 30 days
43 after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to
44 pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236.

45 (j) Sunset. – This section is repealed effective for renewable energy property placed
46 into service on or after January 1, 2016."

47 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,
48 2010, and applies to renewable energy property placed into service on or after that date.