

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 801

Short Title: Reenact Solar Energy Tax Credit. (Public)

Sponsors: Representatives Buansi, Autry, Harrison, and Price (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REENACT A SOLAR ENERGY TAX CREDIT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 105-129.16A is reenacted as it existed immediately before its
5 expiration and reads as rewritten:

6 "**§ 105-129.16A. Credit for investing in renewable energy property-solar energy equipment.**

7 (a) Credit. – A taxpayer that has constructed, purchased, or leased ~~renewable energy~~
8 ~~property-qualifying solar energy equipment~~ is allowed a credit equal to thirty-five percent (35%)
9 of the cost of the ~~property-equipment~~ if the ~~property-equipment~~ is placed in service in this State
10 during the taxable year. In the case of ~~renewable energy property-qualifying solar energy~~
11 ~~equipment~~ that serves a nonbusiness purpose, the credit must be taken for the taxable year in
12 which the ~~property-equipment~~ is placed in service. For all other ~~renewable energy property-~~
13 ~~qualifying solar energy equipment~~, the entire credit may not be taken for the taxable year in
14 which the ~~property-equipment~~ is placed in service but must be taken in five equal installments
15 beginning with the taxable year in which the ~~property-equipment~~ is placed in service. Upon
16 request of a taxpayer that leases ~~renewable energy property-qualifying solar energy equipment~~,
17 the lessor of the ~~property-equipment~~ must give the taxpayer a statement that describes the
18 ~~renewable energy property-qualifying solar energy equipment~~ and states the cost of the ~~property-~~
19 ~~equipment~~. No credit is allowed under this section to the extent the cost of the ~~renewable energy~~
20 ~~property-qualifying solar energy equipment~~ was provided by public funds. For the purposes of
21 this section, "public funds" does not include grants made under section 1603 of the American
22 Recovery and Reinvestment Tax Act of 2009. "qualifying solar energy equipment" is equipment
23 described in G.S. 105-129.15(7)e.

24 (b) Expiration. – If, in one of the years in which the installment of a credit accrues, the
25 ~~renewable energy property-qualifying solar energy equipment~~ with respect to which the credit
26 was claimed is disposed of, taken out of service, or moved out of State, the credit expires and the
27 taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take
28 the portion of an installment that accrued in a previous year and was carried forward to the extent
29 permitted under G.S. 105-129.17.

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

32 (1) Business. – A ceiling of two million five hundred thousand dollars
33 (\$2,500,000) applies to each installation of ~~renewable energy property~~
34 ~~qualifying solar energy equipment~~ placed in service for a business purpose.
35 ~~Renewable energy property-Qualifying solar energy equipment~~ is placed in



1 service for a business purpose if the useful energy generated by the ~~property~~
2 equipment is offered for sale or is used on-site for a purpose other than
3 providing energy to a residence.

4 (2) Nonbusiness. – The following ceilings apply to ~~renewable energy property~~
5 qualifying solar energy equipment placed in service for a nonbusiness
6 purpose:

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

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

12 e. ~~Eight thousand four hundred dollars (\$8,400) for each installation of~~
13 ~~geothermal equipment.~~

14 d. ~~Ten thousand five hundred dollars (\$10,500) for each installation of~~
15 ~~any other renewable energy property.~~

16 (3) Eco-Industrial Park. – A ceiling of five million dollars (\$5,000,000) applies
17 to each installation of ~~renewable energy property qualifying solar energy~~
18 equipment placed in service at an Eco-Industrial Park certified under
19 G.S. 143B-437.08 for a business purpose described in subdivision (1) of this
20 subsection.

21 (d) No Double Credit. – A taxpayer that claims any other credit allowed under this
22 Chapter with respect to ~~renewable energy property qualifying solar energy equipment~~ may not
23 take the credit allowed in this section with respect to the same ~~property equipment~~. A taxpayer
24 may not take the credit allowed in this section for ~~renewable energy property qualifying solar~~
25 energy equipment the taxpayer leases from another unless the taxpayer obtains the lessor's written
26 certification that the lessor will not claim a credit under this Chapter with respect to the
27 ~~property equipment~~.

28 (e) ~~Sunset.~~—~~Except for taxpayers covered by subsection (f) of this section, this section~~
29 ~~is repealed effective for renewable energy property placed into service on or after January 1,~~
30 ~~2016.~~

31 (f) ~~Delayed Sunset.~~—~~This section is repealed effective for renewable energy property~~
32 ~~placed in service on or after January 1, 2017, except as provided in subsection (g) of this section.~~

33 (g) ~~Alternate Delayed Sunset.~~—~~This section is repealed effective for renewable energy~~
34 ~~property utilizing renewable biomass resources placed in service on or after May 5, 2017.~~

35 (h) ~~Delayed Sunset Conditions.~~—~~A taxpayer is eligible for the delayed sunset provided~~
36 ~~by subsection (f) or (g) of this section if the taxpayer makes a timely application for the extension,~~
37 ~~pays the application fee, and meets both of the following conditions on or before January 1, 2016:~~

38 (i) ~~incurred at least the minimum percentage of costs of the project and (ii) completed at least the~~
39 ~~minimum percentage of the physical construction of the project. For a project with a total size of~~
40 ~~less than 65 megawatts of direct current capacity, the minimum percentage of incurred costs and~~
41 ~~partial construction is at least eighty percent (80%). For a project with a total size of 65 megawatts~~
42 ~~or more of direct current capacity, the minimum percentage of incurred costs and partial~~
43 ~~construction is at least fifty percent (50%).~~

44 ~~An application and payment must be filed with the Secretary on or before October 1, 2015.~~
45 ~~The application must include the location of the project, an estimate of the total cost of the project,~~
46 ~~the total anticipated credit to be claimed, and the total size in megawatt capacity of each project~~
47 ~~proposed or under construction. The nonrefundable fee to be paid with the application is one~~
48 ~~thousand dollars (\$1,000) per megawatt of capacity, with a minimum fee of five thousand dollars~~
49 ~~(\$5,000).~~

1 A taxpayer must provide the documentation required under this subsection to the Department
2 on or before March 1, 2016, to verify that the taxpayer meets the minimum percentage of incurred
3 costs and partial construction required to be eligible for the sunset extension:

- 4 (1) A written certification signed by the taxpayer that, prior to January 1, 2016, at
5 least the minimum percentage of the physical construction of the project was
6 completed and that at least the minimum percentage of the total cost of the
7 project was incurred.
- 8 (2) A notarized copy of a written report prepared by an independent engineer duly
9 licensed in the State of North Carolina with expertise in the design and
10 construction of installations of renewable energy property stating that at least
11 the minimum percentage of the physical construction of the project was
12 completed prior to January 1, 2016.
- 13 (3) A notarized copy of a written report prepared by a certified public accountant
14 duly licensed to practice in the State of North Carolina with expertise in
15 accounting for and taxation of renewable energy property and that was
16 prepared in accordance with AT Section 201 of the American Institute of
17 Certified Public Accountants Standards for Agreed Upon Procedures
18 Engagements stating that the minimum percentage of the total cost of the
19 project was paid or incurred as determined under Section 461 and other
20 relevant sections of the Code prior to January 1, 2016."

21 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,

22 2023.