

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 512*
Committee Substitute Favorable 6/25/09

Short Title: Incentives for Energy Conservation.

(Public)

Sponsors:

Referred to:

March 10, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE INCENTIVES FOR RENEWABLE ENERGY AND ENERGY
3 EFFICIENCY.

4 Whereas, the House Energy and Energy Efficiency Committee reviewed the
5 following tax credits based on the revenue impact of the credits, including how stable the
6 revenue impact would be over time; and

7 Whereas, the House Energy and Energy Efficiency Committee reviewed the
8 following tax credits based on the tax incidence and equality, including who benefits from the
9 credits, and who will ultimately bear the burden of the tax credits; and

10 Whereas, the House Energy and Energy Efficiency Committee reviewed the
11 following tax credits based on the effectiveness of the credits, including whether the credits
12 will effectively encourage investment in renewable energy and high-performance homes; and

13 Whereas, the House Energy and Energy Efficiency Committee reviewed the
14 following tax credits based on the efficiency and clarity of the tax credits, including whether
15 the credits are easy to understand and easy to administer; Now, therefore,
16 The General Assembly of North Carolina enacts:

17 **PART I: FUEL CELL PROPERTY, RENEWABLE ENERGY PROPERTY, AND**
18 **ENERGY EFFICIENCY PROPERTY CREDIT**

19 **SECTION 1.(a)** G.S. 105-129.15 reads as rewritten:

20 "The following definitions apply in this Article:

21 ...

22 (3a) Energy efficiency property. – Any of the following machinery and
23 equipment or real property should be:

24 a. Combined heat and power property. – Equipment located at a retail
25 electric customer's facility or home that does both of the following:

26 1. Simultaneously and efficiently produces useful thermal value
27 and electricity.

28 2. Recovers not less than sixty percent (60%) of the energy
29 value in the fuel (on a higher-heating-value basis) in the form
30 of useful thermal energy and electricity.

31 b. Geothermal equipment that uses the internal heat of the earth as a
32 substitute for traditional energy for water heating or active space
33 heating and cooling.

34 (3b) Fuel cell property. – Equipment that uses an electrochemical process to
35 convert renewable-energy-generated hydrogen to electricity.

36 ...



1 (7) Renewable energy property. – Any of the following machinery and
2 equipment or real property:

3 ...

4 c. Solar energy equipment that uses solar radiation as a substitute for
5 traditional energy for water heating, active space heating and
6 cooling, passive heating, daylighting, generating electricity,
7 distillation, desalination, detoxification, or the production of
8 industrial or commercial process heat. The term also includes related
9 devices necessary for collecting, storing, exchanging, conditioning,
10 or converting solar energy to other useful forms of energy. Solar
11 energy equipment for water heating must be certified for
12 performance by the nonprofit Solar Rating Certification Corporation.

13"

14 **SECTION 1.(b)** G.S. 105-129.16A reads as rewritten:

15 "**§ 105-129.16A. Credit for investing in fuel cell property, renewable energy property,**
16 **and energy efficiency property.**

17 (a) Credit. – If a taxpayer that has constructed, purchased, or leased fuel cell property,
18 renewable energy property, or energy efficiency property places it in service in this State
19 during the taxable year, the taxpayer is allowed a credit ~~equal to thirty five percent (35%) of~~
20 ~~the cost of the property under this section.~~ In the case of ~~renewable energy~~ property that serves
21 a single-family dwelling, the credit must be taken for the taxable year in which the property is
22 placed in service. For all other ~~renewable energy~~ property, the entire credit may not be taken
23 for the taxable year in which the property is placed in service but must be taken in five equal
24 installments beginning with the taxable year in which the property is placed in service. The
25 amount of the credit is as follows:

26 (1) Renewable energy property. – The credit is equal to thirty-five percent
27 (35%) of the cost of the property.

28 (2) Fuel cell and energy efficiency property. – The credit is equal to ten percent
29 (10%) of the cost of the property.

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

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

39 (1) Nonresidential Property. – A ceiling of two million five hundred thousand
40 dollars (\$2,500,000) per installation applies to fuel cell property, renewable
41 energy property, or energy efficiency property placed in service ~~for any~~
42 ~~purpose other than residential by a business entity in furtherance of a~~
43 commercial enterprise.

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

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

- 1 b. Three thousand five hundred dollars (\$3,500) per dwelling unit for
2 solar energy equipment for active space heating, combined active
3 space and domestic hot water systems, and passive space heating.
4 c. Ten thousand five hundred dollars (\$10,500) per installation for any
5 other renewable energy property for residential purposes.
6 d. Ten thousand five hundred dollars (\$10,500) per installation for
7 combined heat and power property.
8 e. Eight thousand four hundred dollars (\$8,400) per installation for
9 geothermal heat pumps.

10 ...

11 (e) Sunset. – This section is repealed effective for fuel cell property, renewable energy
12 property, and energy efficiency property placed into service on or after January 1, ~~2014~~2016.

13 (f) Tax Election. – For purposes of the tax credit allowed under this section, the tax
14 election required under G.S. 105-129.17(a) also includes the gross premium taxes levied in
15 Article 8B of this Chapter."

16 **PART II: FUEL CELL PROPERTY, RENEWABLE ENERGY PROPERTY, AND**
17 **ENERGY EFFICIENCY PROPERTY FACILITY CONSTRUCTION CREDIT**

18 SECTION 2.(a) G.S. 105-130.28 is reenacted and reads as rewritten:

19 **"§ 105-130.28. Credit ~~against corporate income tax for construction~~ construction,**
20 **expansion, or retooling of a facility for the manufacture of property components, fuel cell**
21 **property, renewable energy equipment property, and energy efficiency property facility.**

22 (a) Credit. – A corporation that ~~constructs~~ constructs, expands, or retools in North
23 Carolina a facility for the manufacture of property components, fuel cell property, renewable
24 energy equipment property, or energy efficiency property, is allowed a credit against the tax
25 imposed by this Part equal to ~~twenty-five~~ ten percent (~~25%~~)(10%) of the installation and
26 equipment costs of ~~construction~~ construction, expansion, or retooling paid during the taxable
27 year. The entire credit may not be taken for the taxable year in which the costs are paid but
28 must be taken in five equal installments beginning with the taxable year in which the costs are
29 paid.

30 No credit is allowed, however, to the extent that any of the costs of the ~~equipment property~~
31 were provided by federal, State, or local grants. At least seventy-five percent (75%) of the
32 annual production of property components must be intended for end products of fuel cell
33 property, renewable energy property, or energy efficiency property. The North Carolina Solar
34 Center will verify that the property component manufacturer has satisfied the minimum annual
35 production requirement of this subsection. To secure the credit allowed by this section, the
36 taxpayer must own or control the facility at the time of construction.

37 (b) Definitions. – The ~~following~~ definitions provided in G.S. 105-129.15 apply in this
38 ~~section~~ section.

- 39 (1) ~~Biomass equipment. — Products designed to use renewable biomass~~
40 ~~resources for biofuel production of ethanol, methanol, and biodiesel;~~
41 ~~anaerobic biogas production of methane utilizing agricultural and animal~~
42 ~~waste or garbage; or commercial thermal or electrical generation from~~
43 ~~renewable energy crops or wood waste materials. The term also includes~~
44 ~~related devices for converting, conditioning, and storing the liquid fuels, gas,~~
45 ~~and electricity produced with biomass equipment.~~
46 (2) ~~Hydroelectric generator. — Defined in G.S. 105-129.15.~~
47 (3) ~~Renewable biomass resources. — Defined in G.S. 105-129.15.~~
48 (4) ~~Renewable energy equipment. — Biomass equipment, hydroelectric~~
49 ~~generators, solar electric or thermal equipment, and wind energy equipment.~~
50 (5) ~~Solar electric or thermal equipment. — Products designed to convert sunlight~~
51 ~~into electricity or heat.~~

1 (6) ~~Wind energy equipment. — Products designed to capture and convert wind~~
2 ~~energy into electricity or mechanical power.~~

3 (c) Cap. — The credit allowed by this section may not exceed fifty percent (50%) of the
4 amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits
5 allowable, except payments of tax made by or on behalf of the taxpayer. This limitation applies
6 to the cumulative amount of the credit, including carryforwards, claimed by the taxpayer under
7 this section for the taxable year. Any unused portion of the credit may be carried forward for
8 the succeeding 10 years.

9 (c1) Tax Election. — The credit allowed by this section is allowed against the franchise
10 tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter.
11 The taxpayer must elect the tax against which a credit will be claimed when filing the return on
12 which the first installment of the credit is claimed. This election is binding. Any carryforwards
13 of a credit must be claimed against the same tax.

14 (d) No Double Credit. — A taxpayer that claims any other credit allowed under this
15 Chapter with respect to ~~construction~~ construction, expansion, or retooling of a facility for the
16 manufacture of property components, fuel cell property, renewable energy equipment property,
17 and energy efficiency property may not take the credit allowed in this section with respect to
18 the same facility.

19 (e) Sunset. — This section is repealed effective for facilities constructed, expanded, or
20 retooled for the manufacture of property components, fuel cell property, renewable energy
21 property, or energy efficiency property on or after January 1, 2016."

22 **SECTION 2.(b)** G.S. 105-115 is amended by adding a new subdivision to read:

23 "(7a) Property component. — Any part, assembly of parts, material, or supply that
24 is incorporated directly into the end product of fuel cell property, renewable
25 energy property, or energy efficiency component."

26 **PART III: EFFECTIVE DATE**

27 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
28 2009.