

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE BILL 239

Short Title: Renewable Energy and Energy Efficiency Credit. (Public)

Sponsors: Senators Stein; Albertson, Allran, Atwater, Berger of Franklin, Bingham, Boseman, Clodfelter, Dannelly, Davis, Dorsett, Foriest, Garrou, Goss, Hartsell, Hoyle, Jenkins, Kinnaird, Malone, McKissick, Nesbitt, Purcell, Queen, Rand, Snow, Soles, Stevens, Swindell, Vaughan, and Weinstein.

Referred to: Finance.

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET FOR THE RENEWABLE ENERGY TAX CREDIT TO MATCH THE FEDERAL TAX CREDIT, TO ENCOURAGE INSTALLATION OF COMBINED HEAT AND POWER PROPERTY AND GEOTHERMAL HEAT PUMPS, AND TO ALLOW ENERGY TAX CREDITS TO BE TAKEN AGAINST THE GROSS PREMIUM TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.15 reads as rewritten:

"§ 105-129.15. Definitions.

The following definitions apply in this Article:

- (1) Business property. – Tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The term does not include, however, a luxury passenger automobile taxable under section 4001 of the Code or a watercraft used principally for entertainment and pleasure outings for which no admission is charged.
 - (1a) Combined heat and power property. – Equipment located at a retail electric customer's facility or home that:
 - a. Simultaneously and efficiently produces useful thermal value and electricity; and
 - b. Recovers not less than sixty percent (60%) of the energy value in the fuel (on a higher-heating-value basis) in the form of useful thermal energy and electricity.
- (2) Cost. – In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code, subject to the limitation on cost provided in section 179 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).
- (3) Recodified as § 105-129.15(5).
- (4) Hydroelectric generator. – A machine that produces electricity by water power or by the friction of water or steam.
- (4a) Repealed by Session Laws 2002-87, s. 3, effective August 22, 2002.
- (5) Purchase. – Defined in section 179 of the Code.



- 1 (6) Renewable biomass resources. – Organic matter produced by terrestrial and
2 aquatic plants and animals, such as standing vegetation, aquatic crops,
3 forestry and agricultural residues, spent pulping liquor, landfill wastes, and
4 animal wastes.
- 5 (7) Renewable energy and energy efficient property. – Any of the following
6 machinery and equipment or real property:
- 7 a. Biomass equipment that uses renewable biomass resources for
8 biofuel production of ethanol, methanol, and biodiesel; anaerobic
9 biogas production of methane utilizing agricultural and animal waste
10 or garbage; or commercial thermal or electrical generation. The term
11 also includes related devices for converting, conditioning, and storing
12 the liquid fuels, gas, and electricity produced with biomass
13 equipment.
- 14 b. Hydroelectric generators located at existing dams or in free-flowing
15 waterways, and related devices for water supply and control, and
16 converting, conditioning, and storing the electricity generated.
- 17 c. Solar energy equipment that uses solar radiation as a substitute for
18 traditional energy for water heating, active space heating and
19 cooling, passive heating, daylighting, generating electricity,
20 distillation, desalination, detoxification, or the production of
21 industrial or commercial process heat. The term also includes related
22 devices necessary for collecting, storing, exchanging, conditioning,
23 or converting solar energy to other useful forms of energy.
- 24 d. Wind equipment required to capture and convert wind energy into
25 electricity or mechanical power, and related devices for converting,
26 conditioning, and storing the electricity produced.
- 27 e. Geothermal heat pumps that use the ground or groundwater as a
28 thermal energy source to heat a structure or as a thermal energy sink
29 to cool a structure.
- 30 (8) Renewable fuel. – Either of the following:
31 a. Biodiesel, as defined in G.S. 105-449.60.
32 b. Ethanol either unmixed or in mixtures with gasoline that are seventy
33 percent (70%) or more ethanol by volume."

34 **SECTION 2.** G.S 105-129.16A reads as rewritten:

35 **"§ 105-129.16A. Credit for investing in renewable energy and energy efficient property.**

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

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

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

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

7 (2) Residential Property. – The following ceilings apply to renewable energy
8 and energy efficient property and to combined heat and power property
9 placed in service for residential purposes:

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

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

16 c. Ten thousand five hundred dollars (\$10,500) per installation for any
17 other renewable energy and energy efficient property and for
18 combined heat and power property used for residential purposes.

19 d. Eight thousand four hundred dollars (\$8,400) per installation for
20 geothermal heat pumps.

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

27 (e) Sunset. – This section is repealed effective for renewable energy property placed
28 into service on or after January 1, ~~2011~~. 2017.

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

32 **SECTION 3.** This act is effective for taxes imposed for taxable years beginning on
33 or after January 1, 2009.