

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 94*
Finance Committee Substitute Adopted 2/23/11
Finance Committee Substitute #2 Adopted 6/9/11

Short Title: Allocation of Renewable Energy Tax Credit.

(Public)

Sponsors:

Referred to:

February 22, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE RENEWABLE ENERGY TAX CREDIT TO BE ALLOCATED
3 BY A PASS-THROUGH ENTITY TO ITS OWNERS AND TO CHANGE THE
4 DEFINITION OF COST.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 105-129.15(2) reads as rewritten:

7 "§105-129.15. Definitions.

8 The following definitions apply in this Article:

9 ...
10 (2) Cost. – In the case of property owned or leased by the taxpayer, cost is
11 determined pursuant to regulations adopted under section 1012 of the Code,
12 subject to the limitation on cost provided in section 179 of the Code. In the
13 case of property the taxpayer leases from ~~another~~, ~~cost is another~~ pursuant to
14 a lease agreement entered into on or before December 31, 2011, the taxpayer
15 may elect to determine cost as value as—determined pursuant to
16 G.S. 105-130.4(j)(2), unless the property is renewable energy property for
17 which the taxpayer claims either a federal energy credit under section 48 of
18 the Code or a federal grant in lieu of that credit and makes a lease
19 pass-through election under the Code. In this circumstance, the cost of the
20 leased renewable energy property is the cost determined under the
21 Code.~~105-130.4(j)(2).~~

22"

23 SECTION 2. G.S. 105-129.16A is amended by adding a new subsection to read:

24 "(a1) Allocation. – Notwithstanding G.S. 105-131.8 and G.S. 105-169.15, a pass-through
25 entity that qualifies for the credit allowed by this section may allocate the credit among any of
26 its owners in its discretion as long as an owner's adjusted basis in the pass-through entity, as
27 determined under the Code at the end of the taxable year in which the renewable energy
28 property is placed into service, is at least forty percent (40%) of the amount of credit allocated
29 to that owner. An owner to whom a credit is allocated is allowed the credit as if the owner had
30 qualified for the credit directly. A pass-through entity and its owners must include with their
31 tax returns for every taxable year in which an allocated credit is claimed a statement of the
32 allocation made by the pass-through entity and the allocation that would have been required
33 under G.S. 105-131.8 or G.S. 105-269.15."

34 SECTION 3. This act is effective for taxable years beginning on or after January 1,
35 2012.

