

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1472  
Committee Substitute Favorable 6/9/99

Short Title: Simplify Renewable Energy Credits.

(Public)

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Sponsors:

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Referred to:

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May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY AND MODERNIZE TAX CREDITS FOR INVESTING IN  
RENEWABLE ENERGY SOURCES.

The General Assembly of North Carolina enacts:

Section 1. The following sections of Chapter 105 of the General Statutes are  
repealed:

**§ 105-130.23. Credit against corporate income tax for solar energy equipment  
in residential buildings.**

**§ 105-151.2. Credit for solar energy equipment.**

**§ 105-130.26. Credit for conversion of industrial boiler to wood fuel.**

**§ 105-151.5. Credit for conversion of industrial boiler to wood fuel.**

**§ 105-130.27A. Credit for construction of a peat facility.**

**§ 105-130.29. Credit for construction of an olivine brick facility.**

**§ 105-130.30. Credit for construction of a methane gas facility.**

**§ 105-151.10. Credit for construction of a methane gas facility.**

**§ 105-130.31. Credit for installation of a wind energy device.**

**§ 105-151.9. Credit for installation of a wind energy device.**

**§ 105-130.32. Credit for installation of solar energy equipment for the  
production of heat or electricity in certain processes.**

1 § 105-151.8. Credit for installation of solar energy equipment for the production of  
2 heat or electricity in certain processes.

3 § 105-130.33. Credit against corporate income tax for installation of a  
4 hydroelectric generator.

5 § 105-151.7. Credit for installation of a hydroelectric generator.

6 Section 2. Article 3B of Chapter 105 of the General Statutes reads as  
7 rewritten:

8 "ARTICLE 3B.

9 "~~BUSINESS TAX CREDIT, AND ENERGY TAX CREDITS.~~

10 "§ 105-129.15. Definitions.

11 The following definitions apply in this Article:

- 12 (1) Business property. – Tangible personal property that is used by the  
13 taxpayer in connection with a business or for the production of income  
14 and is capitalized by the taxpayer for tax purposes under the Code. The  
15 term does not include, however, a luxury passenger automobile taxable  
16 under section 4001 of the Code or a watercraft used principally for  
17 entertainment and pleasure outings for which no admission is charged.
- 18 (2) Cost. – In the case of property owned by the taxpayer, cost is  
19 determined pursuant to regulations adopted under section 1012 of the  
20 Code, subject to the limitation on cost provided in section 179 of the  
21 Code. In the case of property the taxpayer leases from another, cost is  
22 value as determined pursuant to G.S. 105-130.4(j)(2).
- 23 (3) ~~Purchase. — Defined in section 179 of the Code.~~
- 24 (3) Hydroelectric generator. – A machine that produces electricity by water  
25 power or by the friction of water or steam.
- 26 (4) Purchase. – Defined in section 179 of the Code.
- 27 (5) Renewable biomass resources. – Organic matter produced by terrestrial  
28 and aquatic plants and animals, such as standing vegetation, aquatic  
29 crops, forestry and agricultural residues, landfill wastes, and animal  
30 wastes.
- 31 (6) Renewable energy property. – Any of the following machinery and  
32 equipment or real property:
- 33 a. Biomass equipment that uses renewable biomass resources for  
34 biofuel production of ethanol, methanol, and biodiesel; anaerobic  
35 biogas production of methane utilizing agricultural and animal  
36 waste or garbage; or commercial thermal or electrical generation  
37 from renewable energy crops or wood waste materials. The term  
38 also includes related devices for converting, conditioning, and  
39 storing the liquid fuels, gas, and electricity produced with  
40 biomass equipment.
- 41 b. Hydroelectric generators located at existing dams or in free-  
42 flowing waterways, and related devices for water supply and

1 control, and converting, conditioning, and storing the electricity  
2 generated.

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

11 d. Wind equipment required to capture and convert wind energy  
12 into electricity or mechanical power, and related devices for  
13 converting, conditioning, and storing the electricity produced.

14 **"§ 105-129.16. Credit for investing in business property.**

15 (a) Credit. – If a taxpayer that has purchased or leased business property places it  
16 in service in this State during the taxable year, the taxpayer is allowed a credit equal to  
17 four and one-half percent (4.5%) of the cost of the property. The maximum credit  
18 allowed a taxpayer for property placed in service during a taxable year is four thousand  
19 five hundred dollars (\$4,500). The entire credit may not be taken for the taxable year in  
20 which the property is placed in service but must be taken in five equal installments  
21 beginning with the taxable year in which the property is placed in service.

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

28 (c) No Double Credit. – A taxpayer that claims the credit allowed under Article  
29 3A of this Chapter with respect to business property may not take the credit allowed in  
30 this section with respect to the same property. A taxpayer may not take the credit allowed  
31 in this section for business property the taxpayer leases from another unless the taxpayer  
32 obtains the lessor's written certification that the lessor will not capitalize the property for  
33 tax purposes under the Code and the lessor will not claim the credit allowed in this  
34 section with respect to the property.

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

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

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

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

10 (1) Nonresidential Property. – A ceiling of two hundred fifty thousand  
11 dollars (\$250,000) per installation applies to renewable energy property  
12 placed in service for any purpose other than residential.

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

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

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

21 c. Ten thousand five hundred dollars (\$10,500) per installation for  
22 any other renewable energy property for residential purposes.

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

29 **"§ 105-129.17. Tax election; cap.**

30 (a) Tax Election. – The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against  
31 the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4  
32 of this Chapter. The taxpayer must elect the tax against which the credit will be claimed  
33 when filing the return on which the first installment of ~~the~~ a credit is claimed. This  
34 election is binding. Any carryforwards of the credit must be claimed against the same tax.

35 (b) Cap. – The A credit allowed in this Article may not exceed fifty percent (50%)  
36 of the tax against which it is claimed for the taxable year, reduced by the sum of all other  
37 credits allowed against that tax, except tax payments made by or on behalf of the  
38 taxpayer. This limitation applies to the cumulative amount of credit, including  
39 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable  
40 year. Any unused portion of the credit may be carried forward for the succeeding five  
41 years.

42 **"§ 105-129.18. Substantiation.**

1 To claim ~~the~~a credit allowed by this Article, the taxpayer must provide any  
2 information required by the Secretary of Revenue. Every taxpayer claiming a credit under  
3 this Article must maintain and make available for inspection by the Secretary of Revenue  
4 any records the Secretary considers necessary to determine and verify the amount of the  
5 credit to which the taxpayer is entitled. The burden of proving eligibility for ~~the~~a credit  
6 and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a  
7 taxpayer that fails to maintain adequate records or to make them available for inspection.

8 **"§ 105-129.19. Reports.**

9 The Department of Revenue shall report to the Legislative Research Commission and  
10 to the Fiscal Research Division of the General Assembly by May 1 of each year the  
11 following information for the 12-month period ending the preceding April 1:

12 (1) The number of taxpayers that claimed the ~~credit~~credits allowed in this  
13 Article.

14 (2) The cost of business property and renewable energy property with  
15 respect to which credits were claimed.

16 (3) The total cost to the General Fund of the credits claimed."

17 Section 3. This act does not affect the rights or liabilities of the State, a  
18 taxpayer, or another person arising under a statute repealed by this act before the  
19 effective date of its repeal, nor does it affect the right to any refund or credit of a tax that  
20 accrued under the repealed statute before the effective date of its repeal.

21 Section 4. This act is effective for taxable years beginning on or after January  
22 1, 2000.