

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 443
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10209-Nif-38

Short Title: Renewable Energy Tax Credit. (Public)

Sponsors: Representative Harris.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REENACT A TAX CREDIT INCENTIVE FOR INVESTING IN RENEWABLE
3 ENERGY PROPERTY.

4 The General Assembly of North Carolina enacts:

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

7 "§ 105-129.16A. Credit for investing in renewable energy property.

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

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

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

29 (1) Business. – A ceiling of two million five hundred thousand dollars
30 (\$2,500,000) applies to each installation of renewable energy property placed
31 in service for a business purpose. Renewable energy property is placed in
32 service for a business purpose if the useful energy generated by the property
33 is offered for sale or is used on-site for a purpose other than providing energy
34 to a residence.

35 (2) Nonbusiness. – The following ceilings apply to renewable energy property
36 placed in service for a nonbusiness purpose:



- 1 a. One thousand four hundred dollars (\$1,400) per dwelling unit for solar
2 energy equipment for domestic water heating, including pool heating.
- 3 b. Three thousand five hundred dollars (\$3,500) per dwelling unit for
4 solar energy equipment for active space heating, combined active
5 space and domestic hot water systems, and passive space heating.
- 6 c. Eight thousand four hundred dollars (\$8,400) for each installation of
7 geothermal equipment.
- 8 d. Ten thousand five hundred dollars (\$10,500) for each installation of
9 any other renewable energy property.
- 10 (3) Eco-Industrial Park. – A ceiling of five million dollars (\$5,000,000) applies
11 to each installation of renewable energy property placed in service at an
12 Eco-Industrial Park certified under G.S. 143B-437.08 for a business purpose
13 described in subdivision (1) of this subsection.
- 14 (d) No Double Credit. – A taxpayer that claims any other credit allowed under this
15 Chapter with respect to renewable energy property may not take the credit allowed in this section
16 with respect to the same property. A taxpayer may not take the credit allowed in this section for
17 renewable energy property the taxpayer leases from another unless the taxpayer obtains the
18 lessor's written certification that the lessor will not claim a credit under this Chapter with respect
19 to the property.
- 20 (e) Sunset. – ~~Except for taxpayers covered by subsection (f) of this section, this~~ This
21 section is repealed effective for renewable energy property placed into service on or after January
22 1, 2016-2025.
- 23 (f) ~~Delayed Sunset.~~—~~This section is repealed effective for renewable energy property~~
24 ~~placed in service on or after January 1, 2017, except as provided in subsection (g) of this section.~~
- 25 (g) ~~Alternate Delayed Sunset.~~—~~This section is repealed effective for renewable energy~~
26 ~~property utilizing renewable biomass resources placed in service on or after May 5, 2017.~~
- 27 (h) ~~Delayed Sunset Conditions.~~—~~A taxpayer is eligible for the delayed sunset provided~~
28 ~~by subsection (f) or (g) of this section if the taxpayer makes a timely application for the extension,~~
29 ~~pays the application fee, and meets both of the following conditions on or before January 1, 2016:~~
30 ~~(i) incurred at least the minimum percentage of costs of the project and (ii) completed at least the~~
31 ~~minimum percentage of the physical construction of the project. For a project with a total size of~~
32 ~~less than 65 megawatts of direct current capacity, the minimum percentage of incurred costs and~~
33 ~~partial construction is at least eighty percent (80%). For a project with a total size of 65 megawatts~~
34 ~~or more of direct current capacity, the minimum percentage of incurred costs and partial~~
35 ~~construction is at least fifty percent (50%).~~
- 36 ~~An application and payment must be filed with the Secretary on or before October 1, 2015.~~
37 ~~The application must include the location of the project, an estimate of the total cost of the project,~~
38 ~~the total anticipated credit to be claimed, and the total size in megawatt capacity of each project~~
39 ~~proposed or under construction. The nonrefundable fee to be paid with the application is one~~
40 ~~thousand dollars (\$1,000) per megawatt of capacity, with a minimum fee of five thousand dollars~~
41 ~~(\$5,000).~~
- 42 A taxpayer must provide the documentation required under this subsection to the Department
43 on or before March 1, 2016, to verify that the taxpayer meets the minimum percentage of incurred
44 costs and partial construction required to be eligible for the sunset extension:
- 45 (1) A written certification signed by the taxpayer that, prior to January 1, 2016, at
46 least the minimum percentage of the physical construction of the project was
47 completed and that at least the minimum percentage of the total cost of the
48 project was incurred.
- 49 (2) A notarized copy of a written report prepared by an independent engineer duly
50 licensed in the State of North Carolina with expertise in the design and
51 construction of installations of renewable energy property stating that at least

1 ~~the minimum percentage of the physical construction of the project was~~
2 ~~completed prior to January 1, 2016.~~
3 (3) ~~A notarized copy of a written report prepared by a certified public accountant~~
4 ~~duly licensed to practice in the State of North Carolina with expertise in~~
5 ~~accounting for and taxation of renewable energy property and that was~~
6 ~~prepared in accordance with AT Section 201 of the American Institute of~~
7 ~~Certified Public Accountants Standards for Agreed Upon Procedures~~
8 ~~Engagements stating that the minimum percentage of the total cost of the~~
9 ~~project was paid or incurred as determined under Section 461 and other~~
10 ~~relevant sections of the Code prior to January 1, 2016."~~
11 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,
12 2023.