

1 **RENEWABLE ENERGY TAX CREDIT AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ralph Okerlund**

5 House Sponsor: Michael E. Noel

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies certain tax credits related to renewable energy.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies certain tax credits related to renewable energy;
- 13 ▶ enacts a tax credit related to renewable energy; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill takes effect for a taxable year beginning on or after January 1, ~~§→ [2016]~~ 2015 ~~←§~~ .

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **59-7-614**, as last amended by Laws of Utah 2012, Chapter 37

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **59-7-614** is amended to read:

25 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**

26 **Certification -- Rulemaking authority.**

27 (1) As used in this section:



90 supply all or part of the energy required for a residential unit owned or used by the business
91 entity and ~~[situated in Utah is entitled to]~~ located in the state may claim a nonrefundable tax
92 credit as provided in this Subsection (2)(a).

93 (ii) (A) ~~[A business entity is entitled to a]~~ The tax credit is equal to 25% of the
94 reasonable costs of each residential energy system installed with respect to each residential unit
95 ~~[it]~~ the business entity owns or uses, including installation costs, against any tax due under this
96 chapter for the taxable year in which the energy system is completed and placed in service.

97 (B) The total amount of each tax credit under this Subsection (2)(a) may not exceed
98 \$2,000 per residential unit.

99 (C) The tax credit under this Subsection (2)(a) is allowed for any residential energy
100 system completed and placed in service on or after January 1, 2007.

101 (iii) If a business entity sells a residential unit to an individual taxpayer before making
102 a claim for the tax credit under this Subsection (2)(a), the business entity may:

103 (A) assign its right to this tax credit to the individual taxpayer; and

104 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
105 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
106 individual taxpayer had completed or participated in the costs of the residential energy system
107 under Section 59-10-1014.

108 (b) (i) ~~[For taxable years beginning on or after January 1, 2007, a]~~ A business entity
109 that purchases or participates in the financing of a commercial energy system situated in Utah
110 ~~[is entitled to]~~ may claim a refundable tax credit as provided in this Subsection (2)(b) if the
111 commercial energy system does not use wind, geothermal electricity, solar, or biomass
112 equipment capable of producing a total of 660 or more kilowatts of electricity ~~↳~~ **or if the**
112a **commercial energy system does not use solar equipment capable of producing 2,000 or more**
112b **kilowatts of electricity** ~~↳~~ **↳**, and:

113 (A) the commercial energy system supplies all or part of the energy required by
114 commercial units owned or used by the business entity; or

115 (B) the business entity sells all or part of the energy produced by the commercial
116 energy system as a commercial enterprise.

117 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs
118 of any commercial energy system installed, including installation costs, against any tax due
119 under this chapter for the taxable year in which the commercial energy system is completed and
120 placed in service.

152 commercial energy system is placed in commercial service.

153 (II) The tax credit allowed by this Subsection (2)(c) for each year may not be carried
154 forward or carried back.

155 (C) The tax credit under this Subsection (2)(c) is allowed for any commercial energy
156 system completed and placed in service on or after January 1, 2007.

157 (iii) A business entity that leases a commercial energy system installed on a
158 commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can
159 confirm that the lessor irrevocably elects not to claim the tax credit.

160 (d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year
161 in which the energy system is completed and placed in service.

162 (ii) Additional energy systems or parts of energy systems may be claimed for
163 subsequent years.

164 (iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax
165 liability under this chapter for a taxable year, the amount of the tax credit exceeding the
166 liability may be carried forward for a period [~~which~~] that does not exceed the next four taxable
167 years.

168 (3) (a) A business entity that owns a commercial energy system located in the state that
169 uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may
170 claim a refundable tax credit as provided in this Subsection (3) if:

171 (i) ~~§→ (A) ←§~~ the commercial energy system supplies all or part of the energy required by
172 commercial units owned or used by the business entity; or

173 ~~§→ (ii) (B) ←§~~ the business entity sells all or part of the energy produced by the
173a commercial

174 energy system as a commercial enterprise ~~§→~~ ; and

174a (ii) the business entity does not claim a tax credit under Subsection (2)(b) ~~←§~~ .

175 (b) A business entity may claim a tax credit under this section equal to the product of:

176 (i) 0.35 cents; and

177 (ii) the kilowatt hours of electricity produced and either used or sold during the taxable
178 year.

179 (c) The tax credit under this Subsection (3) may be claimed for production occurring
180 during a period of 48 months beginning with the month in which the ~~§→~~ [~~commercial~~]

180a commercial ~~←§~~ energy

181 system is placed in commercial service.

182 (d) The tax credit under this Subsection (3) may not be carried forward or carried back.

183 (e) The tax credit under this Subsection (3) is allowed for a ~~§~~ **[commercial]**
 183a **commercial** ~~←§~~ energy system

184 completed and placed in service on or after January 1, ~~§~~ **[2016] 2015 ←§** .

185 (f) A business entity that leases a ~~§~~ **[commercial]** **commercial** ~~←§~~ energy system
 185a installed on a commercial
 186 unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can
 187 confirm that the lessor irrevocably elects not to claim the tax credit.

188 ~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), the tax credits provided for
 189 under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules
 190 and regulations of the United States.

191 (b) A purchaser of one or more solar units that claims a tax credit under Section
 192 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this
 193 section for that purchase.

194 (c) (i) The office may set standards for residential and commercial energy systems
 195 claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability,
 196 efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible
 197 for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate
 198 and economic manner.

199 (ii) The office may set standards for residential and commercial energy systems that
 200 establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and
 201 (2)(b)(ii)(A), as an amount per unit of energy production.

202 (iii) A tax credit may not be taken under Subsection (2) or (3) until the office has
 203 certified that the energy system has been completely installed and is a viable system for saving
 204 or production of energy from renewable resources.

205 (d) The office and the commission may make rules in accordance with Title 63G,
 206 Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

207 ~~[(4)]~~ (5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue
 208 and Taxation Interim Committee shall review each tax credit provided by this section and
 209 report its recommendations to the Legislative Management Committee concerning whether the
 210 tax credit should be continued, modified, or repealed.

211 (b) The Revenue and Taxation Interim Committee's report under Subsection ~~[(4)]~~
 212 ~~(5)~~(a) shall include information concerning the cost of the tax credit, the purpose and
 213 effectiveness of the tax credit, and the state's benefit from the tax credit.

214 Section 2. **Effective date.**

215 This bill takes effect for a taxable year beginning on or after January 1, ~~2016~~ 2015 .

Legislative Review Note
as of 2-20-14 10:31 AM

Office of Legislative Research and General Counsel