

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-548
HOUSE BILL 512**

AN ACT TO EXTEND THE CREDIT FOR INVESTING IN RENEWABLE ENERGY PROPERTY TO GEOTHERMAL HEAT PUMPS AND EQUIPMENT, TO ALLOW THE CREDIT TO BE TAKEN AGAINST THE GROSS PREMIUMS TAX, AND TO EXTEND THE SUNSET FOR THE CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.15(7) reads as rewritten:

"§ 105-129.15. Definitions.

The following definitions apply in this Article:

- ...
- (7) Renewable energy property. – Any of the following machinery and equipment or real property:
- a. Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.
 - b. Hydroelectric generators located at existing dams or in free-flowing waterways, and related devices for water supply and control, and converting, conditioning, and storing the electricity generated.
 - c. Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.
 - d. Wind equipment required to capture and convert wind energy into electricity or mechanical power, and related devices for converting, conditioning, and storing the electricity produced.
 - e. Geothermal heat pumps that use the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.
 - f. Geothermal equipment that uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating and cooling.

...."

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

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



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

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

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

- (1) Nonresidential Property. – A ceiling of two million five hundred thousand dollars (\$2,500,000) per installation applies to renewable energy property placed in service for any purpose other than residential.
- (2) Residential Property. – The following ceilings apply to renewable energy property placed in service for residential purposes:
 - a. One thousand four hundred dollars (\$1,400) per dwelling unit for solar energy equipment for domestic water heating, including pool heating.
 - b. Three thousand five hundred dollars (\$3,500) per dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating.
 - c. Ten thousand five hundred dollars (\$10,500) per installation for any other renewable energy property for residential purposes.
 - d. Eight thousand four hundred dollars (\$8,400) per installation for a geothermal heat pump or geothermal equipment.

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

(e) Sunset. – This section is repealed effective for renewable energy property placed into service on or after January 1, ~~2014~~2016."

SECTION 3. G.S. 105-129.17(a) reads as rewritten:

"(a) Tax Election. – The credit allowed in G.S. 105-129.16A is allowed against the franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or the gross premiums tax levied in Article 8B of this Chapter. The All other credits allowed in this Article are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax."

2009. **SECTION 4.** This act is effective for taxable years beginning on or after January 1,
2009. In the General Assembly read three times and ratified this the 7th day of August,

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:30 a.m. this 28th day of August, 2009