

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H

1

HOUSE BILL 443

Short Title: Renewable Energy Tax Credit. (Public)

Sponsors: Representatives Harris, Clemmons, T. Brown, and Budd (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Rules, Calendar, and Operations of the House

March 23, 2023

A BILL TO BE ENTITLED

AN ACT TO REENACT A TAX CREDIT INCENTIVE FOR INVESTING IN RENEWABLE ENERGY PROPERTY.

The General Assembly of North Carolina enacts:

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

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

(a) Credit. – A taxpayer that has constructed, purchased, or leased renewable energy property is allowed a credit equal to thirty-five percent (35%) of the cost of the property if the property is placed in service in this State during the taxable year. In the case of renewable energy property that serves a nonbusiness purpose, 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. Upon request of a taxpayer that leases renewable energy property, the lessor of the property must give the taxpayer a statement that describes the renewable energy property and states the cost of the property. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds. For the purposes of this section, "public funds" does not include grants made under section 1603 of the American Recovery and Reinvestment Tax Act of 2009.

(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.

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

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



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

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

14           **SECTION 2.** This act is effective for taxable years beginning on or after January 1,  
15           2023.