



GOV. MSG. NO. 847

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 26, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 26, 2008, the following bill was signed into law:

SB644 SD3 HD3 CD1

A BILL FOR AN ACT RELATING TO ENERGY
RESOURCES.
(ACT 204)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's economic
2 viability is dependent on the availability of affordable energy
3 pricing. In early 2008, the price of crude oil surpassed the
4 \$100 per barrel mark from the 2007 annual average of \$65 per
5 barrel, burdening Hawaii's residents and businesses with
6 increasingly high electricity and gasoline costs.

7 Recognizing the critical importance of energy to the State,
8 the legislature in 1976 enacted Act 189 establishing state
9 income tax credits to encourage private investment in renewable
10 energy systems among other measures, and these incentives have
11 proven successful, beneficial, and cost effective. The original
12 Act has been amended 11 times, varying credit rates,
13 applicability, and duration, demonstrating that past progress
14 and prior accomplishments in energy sustainability confer no
15 license for complacency. The legislature finds, in fact, fossil
16 fuel imports now account for a greater impact upon Hawaii's
17 economy than at any prior time in the past, substantially



1 exceeding that of every other state despite the fact that we are
2 blessed with the greatest number of renewable energy resources
3 in the nation.

4 According to the January 2002 report of the energy-
5 efficiency policy task force, in 2001 when oil prices averaged
6 \$23 per barrel, the State of Hawaii refunded an estimated
7 \$2,765,000 to 2,500 solar thermal system purchasers. This
8 spending was estimated to have led to the following economic
9 outcomes:

10 (1) Support for 300 jobs each year that the energy
11 conservation income tax credit remained at a 35 per
12 cent level and creation of 64 new jobs for every 2,500
13 new systems installed, a job impact that increased in
14 relation to the number of systems continuously
15 installed; and

16 (2) A return to the State of \$5,200,000 in tax revenues
17 for every 2,500 systems installed over the 25-year
18 life of these systems, a revenue impact that increased
19 in relation to the number of systems continuously
20 installed. For example, if the number of systems
21 installed each year grows to 5,000, it was predicted
22 that \$10,400,000 in tax revenue would be generated



1 over the life of these systems at current tax
2 incentive levels.

3 However, the legislature finds that, with crude oil prices
4 rising from \$65 to over \$100 per barrel in less than one year
5 and with no relief under the State's direct control and
6 jeopardizing the State's economic viability, the State must
7 seriously consider requiring the installation of solar water
8 heater systems in all new single-family dwellings constructed
9 after December 31, 2009, to accelerate the installation of this
10 type of energy saving device to benefit the owners and renters
11 of newly constructed homes. A government mandate of this
12 technology in new home construction effectively shifts from
13 government investment in this technology via tax credits to a
14 required investment by the private sector that will result in
15 greater benefit to the public at large through the prudent
16 investment in this type of renewable energy saving device.

17 The legislature finds that a conventional electric water
18 tank accounts for 30 to 35 per cent of a home's electric bill.
19 It is estimated that the savings from a home's electricity bill
20 through the installation of a solar water heater system could
21 result in the system being paid off in eight to ten years
22 without a state tax incentive. If oil prices continue to rise,



1 it is possible that energy savings may pay for the system even
2 sooner. Furthermore, if the expense of the installation of a
3 solar water heater system is included in the mortgage of a new
4 home, given the high and unpredictable cost of oil, the savings
5 from the lowered electricity costs may exceed the additional
6 monthly payments for the solar water heater system, which itself
7 has the added benefit of being an allowable tax deductible
8 expense that may also be eligible for a federal renewable energy
9 tax credit. Therefore, the legislature finds that with a solar
10 water heater system mandate, and with a properly sized and
11 installed solar water heater system, a household can increase
12 its disposable income through this type of prudent, energy
13 saving investment.

14 The legislature further finds that the favorable impact of
15 this policy on the environment is undeniable. In 2006, there
16 were 5,700 new residences constructed; assuming that the number
17 of new single-homes constructed remains approximately the same,
18 this would amount to over 10,260 tons of greenhouse gas
19 emissions avoided per year.

20 The legislature recognizes and finds that the
21 discontinuation of the tax credit for installation of solar
22 energy water heating devices for homes with building permits



1 issued prior to January 1, 2010, would remove an important
2 financial incentive for the installation of these devices where
3 the upfront cost, when not rolled into a mortgage, may be cost
4 prohibitive. The availability of the tax credit, in this
5 situation, has proven to be beneficial to the occupant of the
6 home where the device is installed and also has provided a
7 positive revenue impact to the State. Furthermore, the
8 legislature has provided a mechanism for the establishment of
9 other demand side incentives and benefits through the public
10 benefits fund under part VII, chapter 269, Hawaii Revised
11 Statutes. The legislature is confident that the transition
12 provisions established in section 269-124, Hawaii Revised
13 Statutes, will facilitate the provision of suitable demand-side
14 management and energy-efficiency programs for energy consumers.

15 Accordingly, the purpose of this Act is to increase the use
16 of renewable energy to protect our environment, reduce
17 pollution, make housing more affordable, and enhance Hawaii's
18 local economy by:

- 19 (1) Requiring the installation of solar water heater
20 systems, comparable renewable energy systems, or
21 demand gas water heaters in all new residential



1 development projects constructed after January 1,
2 2010; and

3 (2) Restricting the solar thermal energy system tax credit
4 available for single-family residential properties to
5 those properties for which building permits were
6 issued prior to January 1, 2010.

7 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§196- Solar water heater system required for new
11 single-family residential construction. (a) On or after
12 January 1, 2010, no building permit shall be issued for a
13 single-family dwelling that does not include a solar water
14 heater system that meets the standards established pursuant to
15 section 269- , unless the energy resources coordinator
16 approves a variance. A variance shall only be approved if an
17 architect or engineer licensed under chapter 464 attests that:

- 18 (1) Installation is impracticable due to poor solar
19 resource;
20 (2) Installation is cost-prohibitive based upon a life
21 cycle cost-benefit analysis that incorporates the
22 average residential utility bill and the cost of the



1 new solar water heater system with a life cycle that
2 does not exceed fifteen years;

3 (3) A substitute renewable energy technology system, as
4 defined in section 235-12.5, is used as the primary
5 energy source for heating water; or

6 (4) A demand water heater device approved by Underwriters
7 Laboratories, Inc., is installed; provided that at
8 least one other gas appliance is installed in the
9 dwelling. For the purposes of this paragraph, "demand
10 water heater" means a gas-tankless instantaneous water
11 heater that provides hot water only as it is needed.

12 (b) A request for a variance shall be submitted to the
13 energy resources coordinator on an application prescribed by the
14 energy resources coordinator and shall include, but not be
15 limited to, a description of the location of the property and
16 justification for the approval of a variance using the criteria
17 established in subsection (a). A variance shall be deemed
18 approved if not denied within thirty working days after receipt
19 of the variance application.

20 (c) Nothing in this section shall preclude any county from
21 establishing procedures and standards required to implement this
22 section.



1 (d) Nothing in this section shall preclude participation
2 in any utility demand-side management program or public benefits
3 fund under part VII of chapter 269."

4 SECTION 3. Chapter 269, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "**§269- Solar water heater system standards.** Not later
8 than July 1, 2009, or as soon as reasonably practicable, the
9 public utilities commission shall adopt or establish by rule,
10 tariff, or order, standards for solar water heater systems to
11 include, but not be limited to, specifications for the
12 performance, materials, components, durability, longevity,
13 proper sizing, installation, and quality to promote the
14 objectives of section 269-124."

15 SECTION 4. Section 235-12.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§235-12.5 Renewable energy technologies; income tax**
18 **credit.** (a) When the requirements of subsection (c) are met,
19 each individual or corporate taxpayer that files an individual
20 or corporate net income tax return for a taxable year may claim
21 a tax credit under this section against the Hawaii state
22 individual or corporate net income tax. The tax credit may be



1 claimed for every eligible renewable energy technology system
2 that is installed and placed in service in the State by a
3 taxpayer during the taxable year. This credit shall be
4 available for systems installed and placed in service in the
5 State after June 30, 2003. The tax credit may be claimed as
6 follows:

7 (1) Solar thermal energy systems for:

8 (A) Single-family residential property[+] for which a
9 building permit was issued prior to January 1,
10 2010: thirty-five per cent of the actual cost or
11 \$2,250, whichever is less;

12 (B) Multi-family residential property: thirty-five
13 per cent of the actual cost or \$350 per unit,
14 whichever is less; and

15 (C) Commercial property: thirty-five per cent of the
16 actual cost or \$250,000, whichever is less;

17 (2) Wind-powered energy systems for:

18 (A) Single-family residential property: twenty per
19 cent of the actual cost or \$1,500, whichever is
20 less;



1 (B) Multi-family residential property: twenty per
2 cent of the actual cost or \$200 per unit,
3 whichever is less; and

4 (C) Commercial property: twenty per cent of the
5 actual cost or \$500,000, whichever is less; and

6 (3) Photovoltaic energy systems for:

7 (A) Single-family residential property: thirty-five
8 per cent of the actual cost or \$5,000, whichever
9 is less;

10 (B) Multi-family residential property: thirty-five
11 per cent of the actual cost or \$350 per unit,
12 whichever is less; and

13 (C) Commercial property: thirty-five per cent of the
14 actual cost or \$500,000, whichever is less;

15 provided that multiple owners of a single system shall be
16 entitled to a single tax credit; and provided further that the
17 tax credit shall be apportioned between the owners in proportion
18 to their contribution to the cost of the system.

19 In the case of a partnership, S corporation, estate, or
20 trust, the tax credit allowable is for every eligible renewable
21 energy technology system that is installed and placed in service
22 in the State by the entity. The cost upon which the tax credit



1 is computed shall be determined at the entity level.
2 Distribution and share of credit shall be determined pursuant to
3 section 235-110.7(a).

4 (b) For the purposes of this section:

5 "Actual cost" means costs related to the renewable energy
6 technology systems under subsection (a), including accessories
7 and installation, but not including the cost of consumer
8 incentive premiums unrelated to the operation of the system or
9 offered with the sale of the system and costs for which another
10 credit is claimed under this chapter.

11 "Renewable energy technology system" means a new system
12 that captures and converts a renewable source of energy, such as
13 wind, heat (solar thermal), or light (photovoltaic) from the sun
14 into:

- 15 (1) A usable source of thermal or mechanical energy;
- 16 (2) Electricity; or
- 17 (3) Fuel.

18 "Solar or wind energy system" means any identifiable
19 facility, equipment, apparatus, or the like that converts
20 insolation or wind energy to useful thermal or electrical energy
21 for heating, cooling, or reducing the use of other types of
22 energy that are dependent upon fossil fuel for their generation.



1 (c) For taxable years beginning after December 31, 2005,
2 the dollar amount of any utility rebate shall be deducted from
3 the cost of the qualifying system and its installation before
4 applying the state tax credit.

5 (d) The director of taxation shall prepare any forms that
6 may be necessary to claim a tax credit under this section,
7 including forms identifying the technology type of each tax
8 credit claimed under this section, whether for solar thermal,
9 photovoltaic from the sun, or wind. The director may also
10 require the taxpayer to furnish reasonable information to
11 ascertain the validity of the claim for credit made under this
12 section and may adopt rules necessary to effectuate the purposes
13 of this section pursuant to chapter 91.

14 (e) If the tax credit under this section exceeds the
15 taxpayer's income tax liability, the excess of the credit over
16 liability may be used as a credit against the taxpayer's income
17 tax liability in subsequent years until exhausted. All claims
18 for the tax credit under this section, including amended claims,
19 shall be filed on or before the end of the twelfth month
20 following the close of the taxable year for which the credit may
21 be claimed. Failure to comply with this subsection shall
22 constitute a waiver of the right to claim the credit.



1 (f) By or before December, 2005, to the extent feasible,
2 using existing resources to assist the energy-efficiency policy
3 review and evaluation, the department shall assist with data
4 collection on the following:

5 (1) The number of renewable energy technology systems that
6 have qualified for a tax credit during the past year
7 by:

8 (A) Technology type (solar thermal, photovoltaic from
9 the sun, and wind); and

10 (B) Taxpayer type (corporate and individual); and

11 (2) The total cost of the tax credit to the State during
12 the past year by:

13 (A) Technology type; and

14 (B) Taxpayer type.

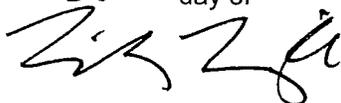
15 (g) For systems installed and placed in service in 2009,
16 no residential home developer shall be entitled to claim the
17 credit under subsections (a)(1)(A), (a)(2)(A), and (a)(3)(A). A
18 residential home developer is defined as a person who holds more
19 than one residential dwelling for sale as inventory."

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon approval;
2 provided that section 4 shall apply to taxable years beginning
3 after December 31, 2008.

APPROVED this **26** day of **JUN**, 2008



GOVERNOR OF THE STATE OF HAWAII

