

1 A bill to be entitled
2 An act relating to tax credits for renewable energy
3 technologies; amending s. 196.175, F.S.; revising
4 provisions of the renewable energy source exemption;
5 excluding the assessed value of certain real property for
6 purposes of determining such exemption; amending s.
7 212.08, F.S.; redefining the term "ethanol" for purposes
8 of the sales tax exemption provided for certain renewable
9 energy technologies; specifying eligible items as limited
10 to one refund; requiring a purchaser who receives a refund
11 to notify a subsequent purchaser of such refund; amending
12 s. 220.192, F.S., relating to the renewable energy
13 technologies investment tax credit; providing a
14 definition; providing for the transferability of such tax
15 credit; providing requirements and procedures therefor;
16 providing rulemaking requirements and authority; amending
17 s. 220.193, F.S.; providing a definition; providing that a
18 taxpayer's use of certain credits does not prohibit the
19 use of other authorized credits; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 196.175, Florida Statutes, is amended
25 to read:

26 196.175 Renewable energy source exemption.--

27 (1) Improved real property upon which a renewable energy
 28 source device is installed and operated shall be entitled to an
 29 exemption in the amount ~~not greater than the lesser of:~~

30 ~~(a) The assessed value of such real property less any~~
 31 ~~other exemptions applicable under this chapter;~~

32 ~~(b) the original cost of the device, including the~~
 33 ~~installation cost thereof, but excluding the cost of replacing~~
 34 ~~previously existing property removed or improved in the course~~
 35 ~~of such installation; or~~

36 ~~(c) Eight percent of the assessed value of such property~~
 37 ~~immediately following installation.~~

38 (2) The exempt amount authorized under subsection (1)
 39 shall:

40 (a) Apply in full if the device was installed and
 41 operative throughout the 12-month period preceding January 1 of
 42 the year of application for the this exemption; and.

43 (b) Be reduced proportionately if the device was operative
 44 for a portion of that period, ~~the exempt amount authorized under~~
 45 ~~this section shall be reduced proportionally.~~

46 ~~(3) It shall be the responsibility of~~ The applicant for an
 47 exemption under pursuant to this section shall to demonstrate
 48 affirmatively to the satisfaction of the property appraiser that
 49 he or she meets the requirements for exemption under this
 50 section and that the original cost ~~pursuant to paragraph (1)(b)~~
 51 and the period for which the device was operative, as indicated
 52 on the exemption application, are correct.

53 (4) An No exemption that is otherwise authorized under
 54 ~~pursuant to~~ this section may not shall be granted for:

55 (a) A period of more than 10 years; or-

56 (b) For a ~~No exemption shall be granted with respect to~~
 57 renewable energy source device ~~devices~~ installed before July 1,
 58 2008 ~~January 1, 1980, or after December 31, 1990.~~

59 Section 2. Paragraph (ccc) of subsection (7) of section
 60 212.08, Florida Statutes, is amended to read:

61 212.08 Sales, rental, use, consumption, distribution, and
 62 storage tax; specified exemptions.--The sale at retail, the
 63 rental, the use, the consumption, the distribution, and the
 64 storage to be used or consumed in this state of the following
 65 are hereby specifically exempt from the tax imposed by this
 66 chapter.

67 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 68 entity by this chapter do not inure to any transaction that is
 69 otherwise taxable under this chapter when payment is made by a
 70 representative or employee of the entity by any means,
 71 including, but not limited to, cash, check, or credit card, even
 72 when that representative or employee is subsequently reimbursed
 73 by the entity. In addition, exemptions provided to any entity by
 74 this subsection do not inure to any transaction that is
 75 otherwise taxable under this chapter unless the entity has
 76 obtained a sales tax exemption certificate from the department
 77 or the entity obtains or provides other documentation as
 78 required by the department. Eligible purchases or leases made
 79 with such a certificate must be in strict compliance with this
 80 subsection and departmental rules, and any person who makes an
 81 exempt purchase with a certificate that is not in strict
 82 compliance with this subsection and the rules is liable for and

83 shall pay the tax. The department may adopt rules to administer
 84 this subsection.

85 (ccc) Equipment, machinery, and other materials for
 86 renewable energy technologies.--

87 1. As used in this paragraph, the term:

88 a. "Biodiesel" means the mono-alkyl esters of long-chain
 89 fatty acids derived from plant or animal matter for use as a
 90 source of energy and meeting the specifications for biodiesel
 91 and biodiesel blends with petroleum products as adopted by the
 92 Department of Agriculture and Consumer Services. Biodiesel may
 93 refer to biodiesel blends designated BXX, where XX represents
 94 the volume percentage of biodiesel fuel in the blend.

95 b. "Ethanol" means an ~~nominally~~ anhydrous denatured
 96 alcohol produced by the conversion of carbohydrates ~~fermentation~~
 97 ~~of plant sugars~~ meeting the specifications for fuel ethanol and
 98 fuel ethanol blends with petroleum products as adopted by the
 99 Department of Agriculture and Consumer Services. Ethanol may
 100 refer to fuel ethanol blends designated EXX, where XX represents
 101 the volume percentage of fuel ethanol in the blend.

102 c. "Hydrogen fuel cells" means equipment using hydrogen or
 103 a hydrogen-rich fuel in an electrochemical process to generate
 104 energy, electricity, or the transfer of heat.

105 2. The sale or use of the following in the state is exempt
 106 from the tax imposed by this chapter:

107 a. Hydrogen-powered vehicles, materials incorporated into
 108 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
 109 a limit of \$2 million in tax each state fiscal year for all
 110 taxpayers.

111 b. Commercial stationary hydrogen fuel cells, up to a
 112 limit of \$1 million in tax each state fiscal year for all
 113 taxpayers.

114 c. Materials used in the distribution of biodiesel (B10-
 115 B100) and ethanol (E10-E100), including fueling infrastructure,
 116 transportation, and storage, up to a limit of \$1 million in tax
 117 each state fiscal year for all taxpayers. Gasoline fueling
 118 station pump retrofits for ethanol (E10-E100) distribution
 119 qualify for the exemption provided in this sub-subparagraph.

120 3. The Department of Environmental Protection shall
 121 provide to the department a list of items eligible for the
 122 exemption provided in this paragraph.

123 4.a. The exemption provided in this paragraph shall be
 124 available to a purchaser only through a refund of previously
 125 paid taxes. Only one purchase of an eligible item is eligible
 126 for a refund. A purchaser who has received a refund on an
 127 eligible item must notify any subsequent purchaser of the item
 128 that the item is no longer eligible for a refund of tax paid.
 129 This notification must be provided to the subsequent purchaser
 130 on the sales invoice or other proof of purchase.

131 b. To be eligible to receive the exemption provided in
 132 this paragraph, a purchaser shall file an application with the
 133 Department of Environmental Protection. The application shall be
 134 developed by the Department of Environmental Protection, in
 135 consultation with the department, and shall require:

136 (I) The name and address of the person claiming the
 137 refund.

138 (II) A specific description of the purchase for which a
 139 refund is sought, including, when applicable, a serial number or
 140 other permanent identification number.

141 (III) The sales invoice or other proof of purchase showing
 142 the amount of sales tax paid, the date of purchase, and the name
 143 and address of the sales tax dealer from whom the property was
 144 purchased.

145 (IV) A sworn statement that the information provided is
 146 accurate and that the requirements of this paragraph have been
 147 met.

148 c. Within 30 days after receipt of an application, the
 149 Department of Environmental Protection shall review the
 150 application and shall notify the applicant of any deficiencies.
 151 Upon receipt of a completed application, the Department of
 152 Environmental Protection shall evaluate the application for
 153 exemption and issue a written certification that the applicant
 154 is eligible for a refund or issue a written denial of such
 155 certification within 60 days after receipt of the application.
 156 The Department of Environmental Protection shall provide the
 157 department with a copy of each certification issued upon
 158 approval of an application.

159 d. Each certified applicant shall be responsible for
 160 forwarding a certified copy of the application and copies of all
 161 required documentation to the department within 6 months after
 162 certification by the Department of Environmental Protection.

163 e. The provisions of s. 212.095 do not apply to any refund
 164 application made pursuant to this paragraph. A refund approved

165 ~~under pursuant to~~ this paragraph shall be made within 30 days
 166 after formal approval by the department.

167 f. The department may adopt all rules pursuant to ss.
 168 120.536(1) and 120.54 to administer this paragraph, including
 169 rules establishing forms and procedures for claiming this
 170 exemption.

171 g. The Department of Environmental Protection shall ensure
 172 ~~be responsible for ensuring~~ that the total amounts of the
 173 exemptions authorized do not exceed the limits as specified in
 174 subparagraph 2.

175 5. The Department of Environmental Protection shall
 176 determine and publish on a regular basis the amount of sales tax
 177 funds remaining in each fiscal year.

178 6. This paragraph expires July 1, 2010.

179 Section 3. Subsection (1) of section 220.192, Florida
 180 Statutes, is amended, present subsection (6) is renumbered as
 181 subsection (7) and amended, present subsection (7) is renumbered
 182 as subsection (8), and a new subsection (6) is added to that
 183 section, to read:

184 220.192 Renewable energy technologies investment tax
 185 credit.--

186 (1) DEFINITIONS.--For purposes of this section, the term:

187 (a) "Biodiesel" means biodiesel as defined in s.
 188 212.08(7)(ccc).

189 (b) "Corporation" means a general partnership, limited
 190 partnership, limited liability company, unincorporated business,
 191 or other business entity in which a taxpayer owns an interest
 192 and that is taxed as a partnership or is disregarded as a

193 separate entity from the taxpayer for tax purposes.

194 (c)~~(b)~~ "Eligible costs" means:

195 1. Seventy-five percent of all capital costs, operation
 196 and maintenance costs, and research and development costs
 197 incurred between July 1, 2006, and June 30, 2010, up to a limit
 198 of \$3 million per state fiscal year for all taxpayers, in
 199 connection with an investment in hydrogen-powered vehicles and
 200 hydrogen vehicle fueling stations in the state, including, but
 201 not limited to, the costs of constructing, installing, and
 202 equipping such technologies in the state.

203 2. Seventy-five percent of all capital costs, operation
 204 and maintenance costs, and research and development costs
 205 incurred between July 1, 2006, and June 30, 2010, up to a limit
 206 of \$1.5 million per state fiscal year for all taxpayers, and
 207 limited to a maximum of \$12,000 per fuel cell, in connection
 208 with an investment in commercial stationary hydrogen fuel cells
 209 in the state, including, but not limited to, the costs of
 210 constructing, installing, and equipping such technologies in the
 211 state.

212 3. Seventy-five percent of all capital costs, operation
 213 and maintenance costs, and research and development costs
 214 incurred between July 1, 2006, and June 30, 2010, up to a limit
 215 of \$6.5 million per state fiscal year for all taxpayers, in
 216 connection with an investment in the production, storage, and
 217 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
 218 the state, including the costs of constructing, installing, and
 219 equipping such technologies in the state. Gasoline fueling
 220 station pump retrofits for ethanol (E10-E100) distribution

221 qualify as an eligible cost under this subparagraph.

222 (d)~~(e)~~ "Ethanol" means ethanol as defined in s.
 223 212.08(7)(ccc).

224 (e)~~(d)~~ "Hydrogen fuel cell" means hydrogen fuel cell as
 225 defined in s. 212.08(7)(ccc).

226 (6) TRANSFERABILITY OF CREDIT.--

227 (a) Any corporation or subsequent transferee allowed a tax
 228 credit under this section may transfer the credit, in whole or
 229 in part, to any taxpayer by written agreement without
 230 transferring any ownership interest in the property generating
 231 the credit or any interest in the entity owning such property.
 232 The transferee is entitled to apply the credits against the tax
 233 with the same effect as if the transferee had incurred the
 234 eligible costs.

235 (b) To perfect the transfer, the transferor shall provide
 236 the department with a written transfer statement notifying the
 237 department of the transferor's intent to transfer the tax
 238 credits to the transferee; the date the transfer is effective;
 239 the transferee's name, address, and federal taxpayer
 240 identification number; the tax period; and the amount of tax
 241 credits to be transferred. The department shall, upon receipt of
 242 a transfer statement conforming to the requirements of this
 243 paragraph, provide the transferee with a certificate reflecting
 244 the tax credit amounts transferred. A copy of the certificate
 245 must be attached to each tax return for which the transferee
 246 seeks to apply such tax credits.

247 (c) A tax credit authorized under this section that is
 248 held by a corporation and not transferred under this subsection

249 must be passed through for application against the taxes of the
 250 corporation's partners, members, or owners in the manner agreed
 251 to by the partners, members, or owners and without regard to the
 252 availability to the partners, members, or owners of any portion
 253 of the federal energy tax credit for the eligible costs.

254 (7)-(6) RULES.--The Department of Revenue may ~~shall~~ have
 255 the authority to adopt rules pursuant to ss. 120.536(1) and
 256 120.54 to administer this section, including rules relating to:

257 (a) The forms required to claim a tax credit under this
 258 section, the requirements and basis for establishing an
 259 entitlement to a credit, and the examination and audit
 260 procedures required to administer this section.

261 (b) The transfer of a tax credit, including forms,
 262 reporting requirements, and specific procedures, guidelines, and
 263 other requirements necessary to transfer a tax credit.

264 (c) The pass through of a tax credit to the partner,
 265 member, or owner of a corporation, including forms, reporting
 266 requirements, and specific procedures, guidelines, and other
 267 requirements necessary for such a pass through.

268 Section 4. Paragraph (f) is added to subsection (2) and
 269 paragraph (j) is added to subsection (3) of section 220.193,
 270 Florida Statutes, to read:

271 220.193 Florida renewable energy production credit.--

272 (2) As used in this section, the term:

273 (f) "Sale" or "sold" includes the use of electricity from
 274 a renewable energy facility by the producer of such electricity
 275 when such use reduces the amount of electricity the producer
 276 would otherwise purchase.

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277 (3) An annual credit against the tax imposed by this
278 section shall be allowed to a taxpayer, based on the taxpayer's
279 production and sale of electricity from a new or expanded
280 Florida renewable energy facility. For a new facility, the
281 credit shall be based on the taxpayer's sale of the facility's
282 entire electrical production. For an expanded facility, the
283 credit shall be based on the increases in the facility's
284 electrical production that are achieved after May 1, 2006.

285 (j) A taxpayer's use of the credit authorized under this
286 section does not reduce the amount of any other credit for which
287 that taxpayer is eligible under s. 220.186.

288 Section 5. This act shall take effect July 1, 2008.