

By Senator Constantine

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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 to
25 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 of ~~not greater than the lesser of:~~

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30 ~~(a) The assessed value of such real property less any other~~
31 ~~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 of~~
35 ~~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 operative
41 throughout the 12-month period preceding January 1 of the year of
42 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 section
50 and that the original cost ~~pursuant to paragraph (1)(b)~~ and the
51 period for which the device was operative, as indicated on the
52 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. ~~No exemption shall~~
56 ~~be granted with respect to~~

57 (b) A renewable energy source device ~~devices~~ installed
58 before July 1, 2008 ~~January 1, 1980, or after December 31, 1990.~~

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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 are
65 hereby specifically exempt from the tax imposed by this chapter.

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

83 (ccc) Equipment, machinery, and other materials for
84 renewable energy technologies.--

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

86 a. "Biodiesel" means the mono-alkyl esters of long-chain
87 fatty acids derived from plant or animal matter for use as a

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88 source of energy and meeting the specifications for biodiesel and
89 biodiesel blends with petroleum products as adopted by the
90 Department of Agriculture and Consumer Services. Biodiesel may
91 refer to biodiesel blends designated BXX, where XX represents the
92 volume percentage of biodiesel fuel in the blend.

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

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

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

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

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

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

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117 3. The Department of Environmental Protection shall provide
118 to the department a list of items eligible for the exemption
119 provided in this paragraph.

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

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

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

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

137 (III) The sales invoice or other proof of purchase showing
138 the amount of sales tax paid, the date of purchase, and the name
139 and address of the sales tax dealer from whom the property was
140 purchased.

141 (IV) A sworn statement that the information provided is
142 accurate and that the requirements of this paragraph have been
143 met.

144 c. Within 30 days after receipt of an application, the
145 Department of Environmental Protection shall review the

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

155 d. Each certified applicant shall be responsible for
156 forwarding a certified copy of the application and copies of all
157 required documentation to the department within 6 months after
158 certification by the Department of Environmental Protection.

159 e. The provisions of s. 212.095 do not apply to any refund
160 application made pursuant to this paragraph. A refund approved
161 under ~~pursuant to~~ this paragraph shall be made within 30 days
162 after formal approval by the department.

163 f. The department may adopt all rules pursuant to ss.
164 120.536(1) and 120.54 to administer this paragraph, including
165 rules establishing forms and procedures for claiming this
166 exemption.

167 g. The Department of Environmental Protection shall ensure
168 ~~be responsible for ensuring~~ that the total amounts of the
169 exemptions authorized do not exceed the limits ~~as~~ specified in
170 subparagraph 2.

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

174 6. This paragraph expires July 1, 2010.

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175 Section 3. Subsection (1) of section 220.192, Florida
176 Statutes, is amended, present subsection (6) is renumbered as
177 subsection (7) and amended, present subsection (7) is renumbered
178 as subsection (8), and a new subsection (6) is added to that
179 section, to read:

180 220.192 Renewable energy technologies investment tax
181 credit.--

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

183 (a) "Biodiesel" means biodiesel as defined in s.

184 212.08(7)(ccc).

185 (b) "Corporation" means a general partnership, limited
186 partnership, limited liability company, unincorporated business,
187 or other business entity in which a taxpayer owns an interest and
188 which is taxed as a partnership or is disregarded as a separate
189 entity from the taxpayer for tax purposes.

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

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

199 2. Seventy-five percent of all capital costs, operation and
200 maintenance costs, and research and development costs incurred
201 between July 1, 2006, and June 30, 2010, up to a limit of \$1.5
202 million per state fiscal year for all taxpayers, and limited to a
203 maximum of \$12,000 per fuel cell, in connection with an

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204 investment in commercial stationary hydrogen fuel cells in the
205 state, including, but not limited to, the costs of constructing,
206 installing, and equipping such technologies in the state.

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

217 (d)~~(e)~~ "Ethanol" means ethanol as defined in s.
218 212.08(7)(ccc).

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

221 (6) TRANSFERABILITY OF CREDIT.--

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

229 (b) To perfect the transfer, the transferor shall provide
230 the department with a written transfer statement notifying the
231 department of the transferor's intent to transfer the tax credits
232 to the transferee; the date the transfer is effective; the

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233 transferee's name, address, and federal taxpayer identification
234 number; the tax period; and the amount of tax credits to be
235 transferred. The department shall, upon receipt of a transfer
236 statement conforming to the requirements of this paragraph,
237 provide the transferee with a certificate reflecting the tax
238 credit amounts transferred. A copy of the certificate must be
239 attached to each tax return for which the transferee seeks to
240 apply such tax credits.

241 (c) A tax credit authorized under this section which is
242 held by a corporation and not transferred under this subsection
243 must be passed through for application against the taxes of the
244 corporation's partners, members, or owners in the manner agreed
245 to by the partners, members, or owners and without regard to the
246 availability to the partners, members, or owners of any portion
247 of the federal energy tax credit for the eligible costs.

248 (7) (6) RULES.--The Department of Revenue may ~~shall have the~~
249 authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to
250 administer this section, including rules relating to:

251 (a) The forms required to claim a tax credit under this
252 section, the requirements and basis for establishing an
253 entitlement to a credit, and the examination and audit procedures
254 required to administer this section.

255 (b) The transfer of a tax credit, including forms,
256 reporting requirements, specific procedures, guidelines, and
257 requirements necessary to transfer a tax credit.

258 (c) The pass through of a tax credit to the partner,
259 member, or owner of a corporation, including forms, reporting
260 requirements, specific procedures, guidelines, and requirements
261 necessary for such a pass through.

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262 ~~(8)(7)~~ PUBLICATION.--The Department of Environmental
263 Protection shall determine and publish on a regular basis the
264 amount of available tax credits remaining in each fiscal year.

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

268 220.193 Florida renewable energy production credit.--

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

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

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

282 (j) A taxpayer's use of the credit authorized under this
283 section does not reduce the amount of any credit otherwise
284 authorized to that taxpayer under s. 220.186.

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