

# House Bill 3345

Sponsored by Representative BREWER; Representatives BAILEY, LINDSAY, SCHAUFLEER, Senator STARR

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies time frame for allowance of tax credits for energy facilities for credits that must be claimed over multiple tax years. Applies to tax credits first claimed in tax years beginning on or after January 1, 2011.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to time frame for allowance of tax credits for energy facilities; creating new provisions;  
3 amending ORS 315.354; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 315.354, as amended by section 3, chapter 76, Oregon Laws 2010, is amended  
6 to read:

7 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if  
8 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the  
9 facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit  
10 is allowed as follows:

11 (a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed [*in each of*  
12 *the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the fa-*  
13 *ility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding*  
14 *three years shall be five percent of the certified cost, but]* **shall be \_\_\_\_\_ percent in the first of**  
15 **five consecutive tax years, \_\_\_\_\_ percent of the certified cost in the second tax year,**  
16 **\_\_\_\_\_ percent of the certified cost in the third tax year, \_\_\_\_\_ percent of the certified**  
17 **cost in the fourth tax year and \_\_\_\_\_ percent of the certified cost in the fifth tax year,**  
18 **but** may not exceed the tax liability of the taxpayer.

19 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit  
20 allowable under subsection (4) of this section may be claimed in the first tax year for which the  
21 credit may be claimed, but may not exceed the tax liability of the taxpayer.

22 (c) If the facility uses or produces renewable energy resources or is a renewable energy re-  
23 source equipment manufacturing facility, the credit allowed [*in each of five succeeding tax years shall*  
24 *be 10 percent of the certified cost of the facility, but]* **shall be \_\_\_\_\_ percent of the certified cost**  
25 **of the facility in the first of five consecutive tax years, \_\_\_\_\_ percent of the certified cost**  
26 **in the second tax year, \_\_\_\_\_ percent of the certified cost in the third tax**  
27 **year, \_\_\_\_\_ percent of the certified cost in the fourth tax year and \_\_\_\_\_ percent of the**  
28 **certified cost in the fifth tax year, but** may not exceed the tax liability of the taxpayer.

29 (2) Notwithstanding subsection (1) of this section:

30 (a) If the facility is one or more renewable energy resource systems installed in a single-family

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 dwelling, the amount of the credit for each system shall be determined as if the facility was con-  
2 sidered a residential alternative energy device under ORS 316.116, but subject to the maximum  
3 credit amount under subsection (4)(b) of this section;

4 (b) If the facility is a high-performance home, the amount of the credit shall equal the amount  
5 determined under paragraph (a) of this subsection plus \$3,000; and

6 (c) If the facility is a high-performance home or a homebuilder-installed renewable energy sys-  
7 tem, the total amount of the credit may be claimed in the first tax year for which the credit is  
8 claimed, but may not exceed the tax liability of the taxpayer.

9 (3) In order for a tax credit to be allowable under this section:

10 (a) The facility must be located in Oregon;

11 (b) The facility must have received final certification from the Director of the State Department  
12 of Energy under ORS 469.185 to 469.225;

13 (c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c); and

14 (d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric  
15 plug-in charging, it must be purchased before January 1, 2010.

16 (4) The total amount of credit allowable to an eligible taxpayer under this section may not ex-  
17 ceed:

18 (a) 50 percent of the certified cost of a renewable energy resources facility, a renewable energy  
19 resource equipment manufacturing facility or a high-efficiency combined heat and power facility;

20 (b) \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

21 (c) \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the  
22 dwelling also constitutes a high-performance home; or

23 (d) 35 percent of the certified cost of any other facility.

24 (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the  
25 facility, notice thereof shall be given to the Director of the State Department of Energy, who shall  
26 revoke the certificate covering the facility as of the date of such disposition.

27 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-  
28 tificate under ORS 469.215. The new lessor or owner must meet the requirements of ORS 469.185 to  
29 469.225 and may claim a tax credit under this section only if all moneys owed to the State of Oregon  
30 have been paid, the facility continues to operate, unless continued operation is waived by the State  
31 Department of Energy, and all conditions in the final certification are met. The tax credit available  
32 to the new owner shall be limited to the amount of credit not claimed by the former owner or, for  
33 a new lessor, the amount of credit not claimed by the lessor under all previous leases.

34 (c) The State Department of Energy may not revoke the certificate covering a facility under  
35 paragraph (a) of this subsection if the tax credit associated with the facility has been transferred  
36 to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

37 (d) A transferee holding a credit that has been transferred under ORS 469.206 or 469.208 may  
38 not claim the tax credit under this section for any tax year prior to the tax year in which the  
39 transferee obtained the credit.

40 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
41 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
42 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
43 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
44 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
45 any credit not used in that third succeeding tax year may be carried forward and used in the fourth

1 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
 2 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that  
 3 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and  
 4 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in  
 5 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax  
 6 year may be carried forward and used in the eighth succeeding tax year, but may not be carried  
 7 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-  
 8 yond the years specified in subsection (1) of this section only as provided in this subsection.

9 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-  
 10 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter  
 11 316, 317 or 318 for such year.

12 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
 13 credits allowed under this section.

14 (9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed  
 15 renewable energy system or a high-performance home:

16 (a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy  
 17 system and a high-performance home with respect to the same dwelling;

18 (b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a  
 19 tax credit under this section with respect to the dwelling; and

20 (c) The buyer of the dwelling may not claim a credit under this section that is based on any  
 21 facility for which the homebuilder has already claimed a credit.

22 (10) The definitions in ORS 469.185 apply to this section.

23 **SECTION 2. The amendments to ORS 315.354 by section 1 of this 2011 Act apply to tax**  
 24 **credits first claimed in tax years beginning on or after January 1, 2011.**

25 **SECTION 3. This 2011 Act takes effect on the 91st day after the date on which the 2011**  
 26 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**