
By: **Delegates Petzold and Hubbard**

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Committee Report: Favorable with amendments

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CHAPTER _____

1 AN ACT concerning

2 **Maryland Clean Energy Incentive Act of 2005**

3 FOR the purpose of extending a certain credit against State income tax for electricity
4 produced from certain qualified resources; altering the types of qualified
5 resources eligible for the credit; allowing for the credit to be used in addition to
6 a certain federal tax credit; ~~making the State income tax credit refundable~~
7 ~~under certain circumstances~~; and generally relating to a certain income tax
8 credit for electricity produced from certain qualified resources.

9 BY repealing and reenacting, with amendments,
10 Article - Tax - General
11 Section 10-720
12 Annotated Code of Maryland
13 (2004 Replacement Volume)

14 Preamble

15 WHEREAS, Maryland's energy policy should encourage a clean and diverse
16 portfolio of domestic energy supplies in order to help ensure that future generations of
17 Marylanders have access to the energy they need at stable prices; and

18 WHEREAS, Renewable energy production in the State of Maryland offers
19 promise in helping to advance the State's efforts to improve the Chesapeake Bay and
20 the air we breathe, enhance the economic viability of Maryland's rural
21 resource-based industries, and provide needed energy production from clean,
22 domestically produced "green" energy fuel sources; and

1 WHEREAS, These renewable sources of energy - naturally occurring sources
 2 of energy, such as the sun, the wind, and biomass - are abundant, often have less
 3 impact on the environment than conventional sources, provide a reliable source of
 4 energy at a stable price, and can generate income for farmers, landowners, and others
 5 who harness them; and

6 WHEREAS, This Act is an initiative by the State of Maryland to advance an
 7 energy policy that is rooted in its long-standing environmental efforts to help restore
 8 the Chesapeake Bay and its ongoing economic-related efforts to create opportunities
 9 for rural Maryland and is designed to help secure the State's future energy needs
 10 through domestic energy production at stable prices; now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Tax - General**

14 10-720.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) (i) Except as provided in subparagraphs (ii) and (iii) of this
 17 paragraph, "qualified energy resources" has the meaning stated in [§ 45] § 45(C)(1) of
 18 the Internal Revenue Code.

19 (ii) "Qualified energy resources" includes any solid, nonhazardous,
 20 cellulosic waste material that is segregated from other waste materials and is derived
 21 from:

22 1. any of the following forest-related resources, not including
 23 old-growth timber:

24 A. mill residues, EXCEPT SAWDUST AND WOOD SHAVINGS;

25 B. pre-commercial thinnings;

26 C. slash; or

27 D. brush;

28 2. waste pallets, crates, and dunnage and landscape or
 29 right-of-way trimmings[, not including unsegregated municipal solid waste and
 30 post-consumer waste paper]; or

31 3. agricultural sources, including orchard tree crops,
 32 vineyard, grain, legumes, sugar, and other crop by-products or residues.

33 (iii) "Qualified energy resources" includes methane gas OR OTHER
 34 COMBUSTIBLE GASES resulting from the [anaerobic] decomposition of organic
 35 materials [in] FROM AN AGRICULTURAL OPERATION, OR FROM a landfill or

1 wastewater treatment plant USING ONE OR A COMBINATION OF THE FOLLOWING
2 PROCESSES:

3 1. ANAEROBIC DECOMPOSITION; OR

4 2. THERMAL DECOMPOSITION.

5 (3) (i) Except as provided in subparagraph (ii) of this paragraph,
6 "qualified] "QUALIFIED Maryland facility" means a facility located in the State that:

7 [1.] (I) primarily uses qualified energy resources to produce
8 electricity and is originally placed in service on or after January 1, [2001] ~~2005~~ 2006,
9 but before January 1, [2005] 2013; or

10 [2.] (II) produces electricity from a qualified energy resource
11 that is co-fired with coal and initially begins co-firing a qualified energy resource on
12 or after January 1, [2001] ~~2005~~ 2006 but before January 1, [2005] 2013, regardless of
13 when the original facility was placed in service.

14 [(ii) "Qualified Maryland facility" does not include a qualified
15 facility that claims a tax credit under § 45 of the Internal Revenue Code:

16 1. that is originally placed in service before January 1, 2002;
17 or

18 2. if § 45 of the Internal Revenue Code is amended to extend
19 the applicability of the credit under that section, that is originally placed in service
20 during the time period specified in § 45 of the Internal Revenue Code for eligibility for
21 the credit under that section.]

22 (b) (1) Except as provided in paragraph (2) of this subsection, an individual
23 or corporation may claim a credit against the State income tax for a taxable year in an
24 amount equal to 0.85 cents for each kilowatt hour of electricity:

25 (i) produced by the individual or corporation from qualified energy
26 resources at a qualified Maryland facility during the 10-year period beginning on:

27 1. the date the facility was originally placed in service; or

28 2. in the case of a facility that produces electricity from a
29 qualified energy resource that is co-fired with coal, the date of the initial co-firing;
30 and

31 (ii) sold by the individual or corporation to a person other than a
32 related person, within the meaning of § 45 of the Internal Revenue Code, during the
33 taxable year.

34 (2) If the electricity is produced from a qualified energy resource that is
35 co-fired at a facility that produces electricity from coal, the credit is 0.5 cents for each

1 kilowatt hour of electricity produced from the qualified energy resource instead of
2 0.85 cents.

3 (c) If the credit allowed under this section ~~IN ANY TAXABLE YEAR~~ exceeds the
4 State income tax, any unused credit may be carried forward and applied for
5 succeeding taxable years until the earlier of:

6 (1) the full amount of the credit is used; or

7 (2) the expiration of the 10th taxable year after the taxable year in
8 which the credit arose; ~~OTHERWISE PAYABLE BY THE INDIVIDUAL OR CORPORATION~~
9 ~~FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION MAY CLAIM A REFUND~~
10 ~~IN THE AMOUNT OF THE EXCESS.~~

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect July 1, 2005.