
By: **Chairman, Ways and Means Committee (By Request - Departmental -
Energy Administration, Maryland)**

Introduced and read first time: February 16, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Energy - Taxes - Extension and Expansion of Credit for Renewable Energy**

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; and
7 generally relating to a certain income tax credit for electricity produced from
8 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

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

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

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

8 **Article - Tax - General**

9 10-720.

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

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

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

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

19 A. mill residues;

20 B. pre-commercial thinnings;

21 C. slash; or

22 D. brush;

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

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

28 (iii) "Qualified energy resources" includes methane gas OR OTHER
29 COMBUSTIBLE GASES resulting from the [anaerobic] decomposition of organic
30 materials [in] FROM AN AGRICULTURAL OPERATION, OR FROM a landfill or
31 wastewater treatment plant USING ONE OR A COMBINATION OF THE FOLLOWING
32 PROCESSES:

33 1. ANAEROBIC DECOMPOSITION; OR

34 2. THERMAL DECOMPOSITION.

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

3 [1.] (I) primarily uses qualified energy resources to
4 produce electricity and is originally placed in service on or after January 1, [2001]
5 2005, but before January 1, [2005] 2013; or

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

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

12 1. that is originally placed in service before January 1, 2002;
13 or

14 2. if § 45 of the Internal Revenue Code is amended to extend
15 the applicability of the credit under that section, that is originally placed in service
16 during the time period specified in § 45 of the Internal Revenue Code for eligibility for
17 the credit under that section.]

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

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

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

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

27 (ii) sold by the individual or corporation to a person other than a
28 related person, within the meaning of § 45(C)(1) of the Internal Revenue Code, during
29 the taxable year.

30 (2) If the electricity is produced from a qualified energy resource that is
31 co-fired at a facility that produces electricity from coal, the credit is 0.5 cents for each
32 kilowatt hour of electricity produced from the qualified energy resource instead of
33 0.85 cents.

34 [(c) If the credit allowed under this section exceeds the State income tax, any
35 unused credit may be carried forward and applied for succeeding taxable years until
36 the earlier of:

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

1 (2) the expiration of the 10th taxable year after the taxable year in
2 which the credit arose.]

3 (C) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
4 EXCEEDS THE TOTAL STATE INCOME TAX OTHERWISE PAYABLE BY THE BUSINESS
5 ENTITY OR THE INDIVIDUAL FOR THAT TAXABLE YEAR, THE BUSINESS ENTITY OR
6 INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

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