
By: **Senators Middleton, Astle, Brinkley, DeGrange, Green, Hafer,
Klausmeier, Stone, and Teitelbaum**

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Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 ~~Energy – Taxes – Extension and Expansion of Credit for Renewable Energy~~
3 ~~Maryland Clean Energy Incentive Act of 2005~~

4 FOR the purpose of ~~extending a certain credit against State income tax for electricity~~
5 ~~produced from certain qualified resources; altering the types of qualified~~
6 ~~resources eligible for the credit; allowing for the credit to be used in addition to~~
7 ~~a certain federal tax credit; making the State income tax credit transferable to~~
8 ~~certain nonrelated third parties; and generally relating to a certain income tax~~
9 ~~credit for electricity produced from certain qualified resources~~ establishing the
10 Renewable Energy Production Grant Program in the Maryland Energy
11 Administration to provide certain grants for individuals or businesses for
12 electricity produced by certain means; requiring the Maryland Energy
13 Administration to administer the Program; establishing certain procedures and
14 award of grants from the Program; defining certain terms; and generally
15 relating to the Renewable Energy Production Grant Program.

16 ~~BY repealing and reenacting, with amendments,~~
17 ~~Article – Tax – General~~
18 ~~Section 10-720~~
19 ~~Annotated Code of Maryland~~
20 ~~(2004 Replacement Volume)~~

21 BY adding to
22 Article - State Government
23 Section 9-2008

1 Annotated Code of Maryland
2 (2004 Replacement Volume)

3 Preamble

4 WHEREAS, Estimates indicate that over the next 20 years, America's oil
5 consumption will increase by 33%, natural gas consumption by well over 50%, and
6 demand for electricity will rise by 45% resulting in a projected need of between 1,300
7 and 1,900 new electric plants; and

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

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

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

21 WHEREAS, Maryland has been a nationally recognized environmental leader
22 as evidenced by its legislative and administrative action in 2000 to promote
23 renewable energy production; and

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

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

31 ~~Article Tax General~~

32 ~~10-720.~~

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

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

1 (ii) "Qualified energy resources" includes any solid, nonhazardous,
 2 cellulose waste material that is segregated from other waste materials and is derived
 3 from:

4 1. any of the following forest related resources, not including
 5 old growth timber:

6 A. mill residues;

7 B. pre-commercial thinnings;

8 C. slash; or

9 D. brush;

10 2. waste pallets, crates, and dunnage and landscape or
 11 right of way trimmings, not including unsegregated municipal solid waste and
 12 post consumer waste paper; or

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

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

20 1. ANAEROBIC DECOMPOSITION; OR

21 2. THERMAL DECOMPOSITION.

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

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

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

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

33 1. that is originally placed in service before January 1, 2002;

34 or

1 2. WASTE PALLETS, CRATES, AND DUNNAGE AND
2 LANDSCAPE OR RIGHT-OF-WAY TRIMMINGS, NOT INCLUDING UNSEGREGATED
3 MUNICIPAL SOLID WASTE AND POST-CONSUMER WASTE PAPER; OR

4 3. AGRICULTURAL SOURCES, INCLUDING ORCHARD TREE
5 CROPS, VINEYARD, GRAIN, LEGUMES, SUGAR, AND OTHER CROP BY-PRODUCTS OR
6 RESIDUES.

7 (III) "QUALIFIED ENERGY RESOURCES" INCLUDES METHANE GAS
8 OR OTHER COMBUSTIBLE GASES RESULTING FROM THE DECOMPOSITION OF
9 ORGANIC MATERIALS FROM AN AGRICULTURAL OPERATION, A LANDFILL OR A
10 WASTEWATER TREATMENT PLANT USING ONE OR A COMBINATION OF THE
11 FOLLOWING PROCESSES:

12 1. ANAEROBIC DECOMPOSITION; OR

13 2. THERMAL DECOMPOSITION.

14 (4) "QUALIFIED MARYLAND FACILITY" MEANS A FACILITY LOCATED IN
15 THE STATE THAT:

16 (I) PRIMARILY USES QUALIFIED ENERGY RESOURCES TO
17 PRODUCE ELECTRICITY AND IS ORIGINALLY PLACED IN SERVICE ON OR AFTER
18 JANUARY 1, 2006, BUT BEFORE JANUARY 1, 2013; OR

19 (II) PRODUCES ELECTRICITY FROM A QUALIFIED ENERGY
20 RESOURCE THAT IS CO-FIRED WITH COAL AND INITIALLY BEGINS CO-FIRING A
21 QUALIFIED ENERGY RESOURCE ON OR AFTER JANUARY 1, 2006 BUT BEFORE
22 JANUARY 1, 2013, REGARDLESS OF WHEN THE ORIGINAL FACILITY WAS PLACED IN
23 SERVICE.

24 (B) THERE IS A RENEWABLE ENERGY PRODUCTION GRANT PROGRAM IN THE
25 ADMINISTRATION.

26 (C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO INDIVIDUALS
27 AND BUSINESSES FOR A PORTION OF THE COSTS TO PRODUCE ELECTRICITY FROM
28 RENEWABLE SOURCES.

29 (D) THE ADMINISTRATION SHALL:

30 (1) ADMINISTER THE PROGRAM;

31 (2) ESTABLISH APPLICATION PROCEDURES FOR THE PROGRAM; AND

32 (3) AWARD GRANTS FROM THE PROGRAM.

33 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN
34 EACH FISCAL YEAR, A GRANT AWARDED UNDER THE PROGRAM MAY NOT EXCEED AN
35 AMOUNT EQUAL TO 0.85 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY;

1 (I) PRODUCED BY THE INDIVIDUAL OR CORPORATION FROM
2 QUALIFIED ENERGY RESOURCES AT A QUALIFIED MARYLAND FACILITY DURING THE
3 10-YEAR PERIOD BEGINNING ON:

4 1. THE DATE THE FACILITY WAS ORIGINALLY PLACED IN
5 SERVICE; OR

6 2. IN THE CASE OF A FACILITY THAT PRODUCES
7 ELECTRICITY FROM A QUALIFIED ENERGY RESOURCE THAT IS CO-FIRED WITH
8 COAL, THE DATE OF THE INITIAL CO-FIRING; AND

9 (II) SOLD BY THE INDIVIDUAL OR CORPORATION TO A PERSON
10 OTHER THAN A RELATED PERSON, WITHIN THE MEANING OF § 45 OF THE INTERNAL
11 REVENUE CODE, DURING THE TAXABLE YEAR.

12 (2) IF THE ELECTRICITY IS PRODUCED FROM A QUALIFIED ENERGY
13 RESOURCE THAT IS CO-FIRED AT A FACILITY THAT PRODUCES ELECTRICITY FROM
14 COAL, THE GRANT AWARDED UNDER THE PROGRAM IN EACH FISCAL YEAR MAY NOT
15 EXCEED 0.5 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY PRODUCED FROM
16 THE QUALIFIED ENERGY RESOURCE INSTEAD OF 0.85 CENTS.

17 (F) FUNDING FOR THE RENEWABLE ENERGY PRODUCTION GRANT PROGRAM
18 SHALL BE AS PROVIDED IN THE STATE BUDGET.

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