

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2427

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 12, SECTION 1, CHAPTER 264, SECTION 1, CHAPTER 316, SECTION 2 AND CHAPTER 317, SECTION 10; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 1; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.01; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1183; RELATING TO INDIVIDUAL AND CORPORATE INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-222, Arizona Revised Statutes, as amended by
3 Laws 2005, chapter 12, section 1, chapter 264, section 1, chapter 316,
4 section 2 and chapter 317, section 10, is amended to read:

5 43-222. Income tax credit review schedule

6 Each year the joint legislative income tax credit review committee
7 shall review the following income tax credits:

8 1. In 2005, sections 43-1087, 43-1088 and 43-1175.

9 2. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
10 43-1090, 43-1176 and 43-1181.

11 3. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
12 43-1166, 43-1167 and 43-1169.

13 4. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
14 43-1178.

15 5. In 2009, sections 43-1076, 43-1081.01, 43-1083, 43-1084, 43-1162
16 and 43-1170.01.

17 6. In 2010, sections 43-1075, ~~and 43-1163.~~

18 ~~7. In 2010, sections~~ 43-1079.01, ~~and 43-1090.01,~~ 43-1163, 43-1167.01
19 ~~AND 43-1182.~~

20 ~~8. 7.~~ In 2011, ~~section~~ SECTIONS 43-1074.02, 43-1083.01 AND 43-1183.

21 Sec. 2. Repeal

22 Section 43-222, Arizona Revised Statutes, as amended by Laws 2005,
23 chapter 292, section 1, is repealed.

24 Sec. 3. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
25 amended by adding section 43-1083.01, to read:

26 43-1083.01. Credit for electricity production from qualified
27 energy resources: definitions

28 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2006
29 THROUGH DECEMBER 31, 2012, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
30 THIS TITLE FOR A TAXPAYER WHO PRODUCES ELECTRICITY OR MECHANICAL ENERGY FROM
31 QUALIFIED ENERGY RESOURCES PLACED IN OPERATION AFTER DECEMBER 31, 2006. THE
32 AMOUNT OF THE CREDIT IS EQUAL TO THE TOTAL KILOWATT HOURS OF ELECTRICITY
33 PRODUCED BY THE TAXPAYER FROM QUALIFIED ENERGY RESOURCES MULTIPLIED BY ONE
34 AND ONE-HALF CENTS.

35 B. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
36 TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
37 TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY
38 BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A
39 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

40 C. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
41 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL
42 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
43 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
44 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
45 ALLOWED A SOLE OWNER.

1 D. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED ENERGY RESOURCES"
2 MEANS CLOSED-LOOP BIOMASS, SMALL IRRIGATION POWER, SOLAR ENERGY, WIND OR
3 COMBINED HEAT AND POWER. FOR THE PURPOSES OF THIS SUBSECTION:

4 1. "CLOSED-LOOP BIOMASS" MEANS ANY ORGANIC MATERIAL FROM A PLANT THAT
5 IS PLANTED EXCLUSIVELY FOR PURPOSES OF BEING USED AT A FACILITY TO PRODUCE
6 ELECTRICITY.

7 2. "COMBINED HEAT AND POWER" MEANS ANY SYSTEM THAT SIMULTANEOUSLY OR
8 SEQUENTIALLY GENERATES BOTH ELECTRICAL AND MECHANICAL ENERGY AND USEFUL
9 THERMAL ENERGY, USING THE SAME UNIT OF FUEL WITH A TOTAL FUEL EFFICIENCY OF
10 SEVENTY PER CENT OR GREATER.

11 3. "GEOTHERMAL ENERGY" MEANS ENERGY THAT IS DERIVED FROM A GEOTHERMAL
12 DEPOSIT.

13 4. "SMALL IRRIGATION POWER" MEANS POWER THAT IS GENERATED WITHOUT ANY
14 DAM OR IMPOUNDMENT OF WATER THROUGH AN IRRIGATION SYSTEM CANAL OR DITCH AND
15 THAT HAS A NAMEPLATE CAPACITY RATING THAT IS MORE THAN ONE HUNDRED FIFTY
16 KILOWATTS BUT LESS THAN FIVE MEGAWATTS.

17 5. "TOTAL FUEL EFFICIENCY" MEANS THE SUM OF MECHANICAL AND THERMAL
18 ENERGY OUTPUTS DIVIDED BY THE ENERGY INPUT MULTIPLIED BY ONE HUNDRED PER
19 CENT.

20 Sec. 4. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
21 amended by adding section 43-1183, to read:

22 43-1183. Credit for electricity production from qualified
23 energy resources; definitions

24 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2006
25 THROUGH DECEMBER 31, 2012, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY
26 THIS TITLE FOR A TAXPAYER WHO PRODUCES ELECTRICITY FROM QUALIFIED ENERGY
27 RESOURCES IN ARIZONA OR GENERATES MECHANICAL POWER FROM COMBINED HEAT AND
28 POWER. THE TAXPAYER WILL RECEIVE A CREDIT IN AN AMOUNT EQUAL TO THE KILOWATT
29 HOURS MULTIPLIED BY ONE AND ONE-HALF CENTS OR HORSEPOWER HOURS OF POWER
30 PRODUCED BY THE TAXPAYER MULTIPLIED BY ONE AND ONE-TENTH CENTS, IF THE
31 TAXPAYER CAN CERTIFY TO THE DEPARTMENT OF REVENUE THAT IT HAS OWNED THE
32 QUALIFIED ENERGY RESOURCE FOR THE TAX YEAR IN WHICH THE CREDIT IS SOUGHT AND
33 THAT THE TAXPAYER'S EQUIPMENT MEETS THE REQUIREMENTS OF THIS SECTION. FOR
34 COMBINED HEAT AND POWER EQUIPMENT INSTALLED AND OPERATED FOR THE SOLE BENEFIT
35 OF THE TAXPAYER AND NOT FOR THE PURPOSE OF INTERCONNECTION TO AN ELECTRICAL
36 GRID, THE TAXPAYER SHALL PROVIDE ALL RELEVANT DOCUMENTATION, INCLUDING
37 THERMAL ENERGY OUTPUT DATA AND AN AFFIDAVIT CONFIRMING THE COMBINED HEAT AND
38 POWER EQUIPMENT IS IN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE OR LOCAL
39 ENVIRONMENTAL LAWS AND REGULATIONS.

40 B. IF THE COMBINED HEAT AND POWER EQUIPMENT IS BUILT FOR THE PURPOSE
41 OF SELLING EXCESS ELECTRICITY GENERATED TO A UTILITY, THE TAXPAYER SHALL
42 INCLUDE THE FOLLOWING INFORMATION IN ITS AFFIDAVIT TO THE DEPARTMENT:

43 1. EVIDENCE OF A FIRM CONTRACT ENTERED INTO BY THE TAXPAYER AND A
44 UTILITY DESCRIBING THE TERMS AND CONDITIONS FOR THE PURCHASE AND SALE OF
45 ELECTRICITY WITH A TERM OF NO LESS THAN TEN YEARS.

1 2. THE COMBINED HEAT AND POWER EQUIPMENT MEETS THE STANDARDS FOR THE
2 INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, INC., AND THE TAXPAYER CAN
3 DEMONSTRATE TO THE SATISFACTION OF THE UTILITY THAT THE COMBINED HEAT AND
4 POWER EQUIPMENT MEETS THE REQUIREMENTS OF THE AFFECTED UTILITY'S INTERCONNECT
5 STANDARDS, RULES, REGULATIONS AND APPLICABLE TARIFF PROVISIONS.

6 C. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
7 TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
8 TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY
9 BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A
10 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

11 D. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
12 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
13 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
14 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
15 ALLOWED A SOLE OWNER.

16 E. BEGINNING FROM AND AFTER DECEMBER 31, 2006 THROUGH DECEMBER 31,
17 2012, THE DEPARTMENT SHALL RECEIVE AND EVALUATE APPLICATIONS THAT ARE
18 SUBMITTED BY TAXPAYERS TO RECEIVE A QUALIFIED ENERGY RESOURCES CREDIT UNDER
19 THIS SECTION. A TAXPAYER SHALL APPLY FOR THE CREDIT TO THE DEPARTMENT ON A
20 FORM PRESCRIBED BY THE DEPARTMENT. THE APPLICATION SHALL BE FILED WITH THE
21 DEPARTMENT AND THE DEPARTMENT SHALL ISSUE A RECEIPT TO THE APPLICANT. THE
22 APPLICATIONS SHALL INCLUDE:

23 1. THE NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER
24 IDENTIFICATION NUMBER OF THE APPLICANT.

25 2. THE AMOUNT FOR WHICH THE CREDIT IS CLAIMED. THE AMOUNT OF THE
26 CREDIT CANNOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY FOR ANY SINGLE
27 INSTALLATION.

28 3. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT MAY REQUIRE.

29 F. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION E OF
30 THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT THAT IS
31 AUTHORIZED. THE DEPARTMENT SHALL NOT CERTIFY TAX CREDITS UNDER THIS
32 SUBSECTION EXCEEDING FOUR MILLION DOLLARS FOR EACH CALENDAR YEAR. IF THE
33 QUALIFYING APPLICATIONS EXCEED FOUR MILLION DOLLARS IN ANY CALENDAR YEAR, THE
34 DEPARTMENT SHALL AUTHORIZE CREDITS IN THE ORDER OF THE DATE THAT THE
35 APPLICATIONS ARE RECEIVED. IF AN APPLICATION IS RECEIVED THAT, IF
36 AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE FOUR MILLION DOLLAR
37 LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING CREDIT
38 AMOUNT THAT WOULD NOT EXCEED FOUR MILLION DOLLARS. AFTER THE DEPARTMENT
39 AUTHORIZES FOUR MILLION DOLLARS IN TAX CREDITS EACH YEAR, THE DEPARTMENT
40 SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED.

41 G. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED ENERGY RESOURCES"
42 MEANS CLOSED-LOOP BIOMASS, COMBINED HEAT AND POWER, GEOTHERMAL ENERGY, SMALL
43 IRRIGATION POWER, SOLAR ENERGY OR WIND. FOR THE PURPOSES OF THIS SUBSECTION:

- 1 1. "CLOSED-LOOP BIOMASS" MEANS ANY ORGANIC MATERIAL FROM A PLANT THAT
2 IS PLANTED EXCLUSIVELY FOR PURPOSES OF BEING USED AT A FACILITY TO PRODUCE
3 ELECTRICITY.
- 4 2. "COMBINED HEAT AND POWER" MEANS ANY SYSTEM THAT SIMULTANEOUSLY OR
5 SEQUENTIALLY GENERATES BOTH ELECTRICAL AND MECHANICAL ENERGY AND USEFUL
6 THERMAL ENERGY, USING THE SAME UNIT OF FUEL WITH A TOTAL FUEL EFFICIENCY OF
7 SEVENTY PER CENT OR GREATER.
- 8 3. "GEOTHERMAL ENERGY" MEANS ENERGY THAT IS DERIVED FROM A GEOTHERMAL
9 DEPOSIT.
- 10 4. "MUNICIPAL SOLID WASTE" MEANS ANY GARBAGE, REFUSE, SLUDGE FROM A
11 WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT OR AIR POLLUTION CONTROL
12 FACILITY OR OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID OR SEMISOLID
13 MATERIAL OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL,
14 MINING OR AGRICULTURAL OPERATIONS AND FROM COMMUNITY ACTIVITIES. SOLID WASTE
15 DOES NOT INCLUDE SOLID OR DISSOLVED MATERIAL IN DOMESTIC SEWAGE OR SOLID OR
16 DISSOLVED MATERIALS IN IRRIGATION RETURN FLOWS OR INDUSTRIAL DISCHARGES.
- 17 5. "OPEN-LOOP BIOMASS" MEANS ANY AGRICULTURAL LIVESTOCK WASTE
18 NUTRIENTS OR ANY SOLID, NONHAZARDOUS, CELLULOSIC WASTE MATERIAL THAT IS
19 SEGREGATED FROM OTHER WASTE MATERIAL AND THAT IS DERIVED FROM FOREST RELATED
20 RESOURCES, SOLID WOOD WASTE MATERIALS OR AGRICULTURAL SOURCES. FOR THE
21 PURPOSES OF THIS PARAGRAPH, "AGRICULTURAL LIVESTOCK WASTE" MEANS AGRICULTURAL
22 LIVESTOCK MANURE AND LITTER, INCLUDING WOOD SHAVINGS, STRAW, RICE HULLS AND
23 OTHER BEDDING MATERIAL THAT IS USED FOR THE DISPOSITION OF MANURE.
- 24 6. "SMALL IRRIGATION POWER" MEANS POWER THAT IS GENERATED WITHOUT ANY
25 DAM OR IMPOUNDMENT OF WATER THROUGH AN IRRIGATION SYSTEM CANAL OR DITCH AND
26 THAT HAS A NAMEPLATE CAPACITY RATING THAT IS MORE THAN ONE HUNDRED FIFTY
27 KILOWATTS BUT LESS THAN FIVE MEGAWATTS.

28 Sec. 5. Purpose

29 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
30 enacts sections 43-1083.01 and 43-1183, Arizona Revised Statutes, as added by
31 this act, to encourage taxpayers to produce electricity from renewable energy
32 resources in this state.