



## Biofuels Statutory Citations

### STATE OF OREGON

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.*

*Current through the 2013 Legislative Session of the Oregon General Assembly.*

#### **315.354. Energy conservation facilities**

(1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the facility during the period for which that facility is certified under [ORS 469B.130](#) to [469B.169](#). The credit is allowed as follows:

(a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

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

(c) If the facility uses or produces renewable energy resources, the credit allowed in each of five succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer.

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

(a) If the facility is one or more renewable energy resource systems installed in a single-family dwelling, the amount of the credit for each system shall be determined as if the facility was considered a residential alternative energy device under [ORS 316.116](#), but subject to the maximum credit amount under subsection (4)(b) of this section;

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

(c) If the facility is a high-performance home or a homebuilder-installed renewable energy system, the total amount of the credit may be claimed in the first tax year for which the credit is claimed, but may

not exceed the tax liability of the taxpayer.

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

(a) The facility must be located in Oregon;

(b) The facility must have received final certification from the Director of the State Department of Energy under [ORS 469B.130](#) to [469B.169](#);

(c) The taxpayer must be an eligible applicant under [ORS 469B.145 \(1\)\(c\)](#); and

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

(4) The total amount of credit allowable to an eligible taxpayer under this section may not exceed:

(a) 50 percent of the certified cost of a renewable energy resources facility or a high-efficiency combined heat and power facility;

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

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

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

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

(b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new certificate under [ORS 469B.161](#). The new lessor or owner must meet the requirements of [ORS 469B.130](#) to [469B.169](#) and may claim a tax credit under this section only if all moneys owed to the State of Oregon have been paid, the facility continues to operate, unless continued operation is waived by the State Department of Energy, and all conditions in the final certification are met. The tax credit available to the new owner shall be limited to the amount of credit not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all previous leases.

(c) The State Department of Energy may not revoke the certificate covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility has been transferred to a taxpayer who is an eligible applicant under [ORS 469B.145 \(1\)\(c\)\(A\)](#).

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

third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax year may be carried forward and used in the eighth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

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

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

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

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

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

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

(10) The definitions in [ORS 469B.130](#) apply to this section.

**Credits** [Laws 1993, c. 730, § 34](#) (enacted in lieu of 316.140 and 317.104); [Laws 1995, c. 746, § 15](#); [Laws 1997, c. 656, § 4](#); [Laws 1999, c. 365, § 10](#); [Laws 2001, c. 583, § 1](#); [Laws 2001, c. 660, § 1a](#); [Laws 2007, c. 843, § 14, eff. Sept. 27, 2007](#); [Laws 2009, c. 909, § 48, eff. Jan. 1, 2010](#); [Laws 2010, c. 76 \(1st Sp. Sess.\), § 3, eff. May 27, 2010](#); [Laws 2011, c. 693, § 1, eff. Sept. 29, 2011](#); [Laws 2011, c. 474, § 23, eff. Sept. 29, 2011, operative Jan. 1, 2012](#).