

HOUSE BILL No. 5369

October 25, 2007, Introduced by Reps. Moolenaar, Walker, Rocca, Mayes, Hune, Rick Jones, Moore, Calley, Shaffer, Accavitti, Marleau, Stakoe, Agema, Caul, Opsommer, Horn, Nofs, Pearce, Brown, Booher, Gaffney, Pastor, Farrah and Coulouris and referred to the Committee on Energy and Technology.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
(MCL 208.1101 to 208.1601) by adding section 451.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 451. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2007
2 AND BEFORE JANUARY 1, 2018, A TAXPAYER THAT OWNS A SMALL WIND
3 TURBINE LOCATED IN THIS STATE AND USES THAT SMALL WIND TURBINE TO
4 GENERATE ENERGY MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS
5 ACT EQUAL TO \$0.015 PER KILOWATT HOUR GENERATED IN THE TAX YEAR.
6 (2) A TAXPAYER SHALL APPLY TO THE ENERGY OFFICE OF THE
7 DEPARTMENT OF LABOR AND ECONOMIC GROWTH FOR APPROVAL OF A CREDIT

1 UNDER THIS SECTION. THE DIRECTOR OF THE DEPARTMENT OF LABOR AND
2 ECONOMIC GROWTH OR HIS OR HER DESIGNEE IS AUTHORIZED TO APPROVE
3 APPLICATIONS UNDER THIS SUBSECTION. AN APPLICATION SHALL BE
4 APPROVED OR DENIED NOT MORE THAN 45 DAYS AFTER RECEIPT OF THE
5 APPLICATION. IF THE APPLICATION IS NOT APPROVED OR DENIED 45 DAYS
6 AFTER THE APPLICATION IS RECEIVED BY THE DEPARTMENT OF LABOR AND
7 ECONOMIC GROWTH, THE APPLICATION IS CONSIDERED APPROVED FOR THE
8 CREDIT AMOUNT STATED IN THE APPLICATION. THE TOTAL OF ALL CREDITS
9 UNDER THIS SECTION SHALL NOT EXCEED \$3,000,000.00 PER CALENDAR
10 YEAR. THE TOTAL OF ALL CREDITS FOR ANY 1 TAXPAYER UNDER THIS
11 SUBSECTION SHALL NOT EXCEED \$750,000.00 FOR A TAX YEAR. IF THE
12 DEPARTMENT OF LABOR AND ECONOMIC GROWTH APPROVES AN APPLICATION
13 UNDER THIS SUBSECTION, THE DIRECTOR OF THE DEPARTMENT OF LABOR AND
14 ECONOMIC GROWTH OR HIS OR HER DESIGNEE SHALL ISSUE A CERTIFICATE TO
15 THE TAXPAYER THAT STATES THAT THE TAXPAYER IS ELIGIBLE TO CLAIM A
16 CREDIT UNDER THIS SECTION AND THE AMOUNT OF THE CREDIT. IF AN
17 APPLICATION IS DENIED UNDER THIS SECTION, A TAXPAYER IS NOT
18 PROHIBITED FROM SUBSEQUENTLY APPLYING UNDER THIS SECTION FOR A
19 CREDIT. A TAXPAYER SHALL ATTACH THE CERTIFICATE RECEIVED UNDER THIS
20 SUBSECTION TO THE RETURN FILED UNDER THIS ACT ON WHICH A CREDIT
21 ALLOWED UNDER THIS SECTION IS CLAIMED. A TAXPAYER SHALL NOT CLAIM A
22 CREDIT IN EXCESS OF THE AMOUNT APPROVED UNDER THIS SUBSECTION. THE
23 ENERGY OFFICE OF THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH SHALL
24 APPROVE APPLICATIONS IN THE ORDER IN WHICH THEY ARE RECEIVED.
25 APPLICATIONS FOR TAX YEARS THAT BEGIN DURING 2008 SHALL BE ACCEPTED
26 ON AND AFTER JANUARY 1, 2008.

27 (3) A TAXPAYER THAT IS ALLOWED A CREDIT UNDER THIS SECTION MAY

1 ASSIGN ALL OR A PORTION OF THE CREDIT. A CREDIT ASSIGNMENT UNDER
2 THIS SUBSECTION IS IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN
3 WHICH KILOWATT HOURS ON WHICH THE CREDIT IS BASED ARE GENERATED. A
4 TAXPAYER MAY CLAIM A PORTION OF THE CREDIT ALLOWED UNDER THIS
5 SECTION AND ASSIGN A PORTION OF THE REMAINING CREDIT AMOUNT. IF THE
6 TAXPAYER BOTH CLAIMS AND ASSIGNS PORTIONS OF THE CREDIT, THE
7 TAXPAYER SHALL CLAIM THE PORTION IT CLAIMS IN THE TAX YEAR IN WHICH
8 THE KILOWATT HOURS ARE GENERATED ON WHICH THE CREDIT UNDER THIS
9 SECTION IS BASED. AN ASSIGNEE MAY SUBSEQUENTLY ASSIGN A CREDIT OR
10 ANY PORTION OF A CREDIT ASSIGNED UNDER THIS SUBSECTION. THE CREDIT
11 ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED
12 BY THE DEPARTMENT. THE TAXPAYER SHALL SEND A COPY OF THE COMPLETED
13 ASSIGNMENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN WHICH THE
14 ASSIGNMENT IS MADE. THE ASSIGNEE SHALL ATTACH A COPY OF THE
15 COMPLETED ASSIGNMENT FORM TO ITS ANNUAL RETURN REQUIRED UNDER THIS
16 ACT FOR THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE AND THE
17 ASSIGNEE FIRST CLAIMS A CREDIT, WHICH SHALL BE THE SAME TAX YEAR.

18 (4) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
19 AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED UNDER THIS
20 SECTION EXCEED THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR,
21 THE EXCESS SHALL NOT BE REFUNDED, BUT MAY BE CARRIED FORWARD AS AN
22 OFFSET TO THE TAX LIABILITY IN THE SUBSEQUENT TAX YEAR.

23 (5) AS USED IN THIS SECTION, "SMALL WIND TURBINE" MEANS AN
24 INTEGRATED UNIT CONSISTING OF A WIND TURBINE COMPOSED OF A ROTOR,
25 AN ELECTRICAL GENERATOR, A CONTROL SYSTEM, AN INVERTER, OR OTHER
26 POWER CONDITIONING UNIT, AND A TOWER, WHICH USES MOVING AIR TO
27 PRODUCE POWER WITH A MAXIMUM ELECTRICAL GENERATING CAPACITY OF 5

1 MEGAWATTS.