

HB 396 - AS INTRODUCED

2021 SESSION

21-0202

10/08

HOUSE BILL

396

AN ACT relative to credits for certain energy production not issued renewable energy certificates.

SPONSORS: Rep. Oxenham, Sull. 1; Rep. McWilliams, Merr. 27; Sen. Watters, Dist 4

COMMITTEE: Science, Technology and Energy

ANALYSIS

This bill requires the public utilities commission to report its estimates of total yearly production for customer-sited sources that are net metered but which are not issued renewable energy certificates and removes the credit to electric providers.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to credits for certain energy production not issued renewable energy certificates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Short Title. This act shall be known as the “Renewable Energy Property Restoration Act of
2 2021.”

3 2 Findings. Recognizing that the renewable energy attributes of renewable energy generation
4 constitute property interests, whether or not they are tracked in the form of renewable energy
5 certificates, the general court finds that New Hampshire residents have a right to keep the
6 renewable energy attributes of their own self-generated renewable energy. The practice known as
7 “REC sweeping” under RSA 362-F:6, II-a unconstitutionally deprives New Hampshire residents of
8 their private property by seizing and transferring ownership of the renewable energy attributes of
9 their self-generated renewable energy without notice or compensation. The general court recognizes
10 that under Federal Trade Commission regulations New Hampshire small businesses can only legally
11 claim to be using their own self-generated renewable energy if they maintain ownership of such
12 renewable energy attributes. Therefore, by seizing such renewable energy attributes without notice,
13 REC sweeping unjustifiably exposes innocent small business owners who mistakenly but honestly
14 believe they are using their self-generated renewable energy to the threat of a Federal Trade
15 Commission enforcement action. The general court therefore intends that this act protects small
16 businesses and ensures that New Hampshire law complies with constitutional requirements and
17 removes the REC sweeping provisions of RSA 362-F:6, II-a.

18 3 Renewable Energy Certificates; Credit Removed; Reports. Amend RSA 362-F:6, II-a to read as
19 follows:

20 II-a. The commission shall establish a methodology to estimate the total yearly production
21 for customer-sited sources that are net metered under RSA 362-A:9 and for which class I or II
22 certificates are not issued. For purposes of estimation, the commission shall use a capacity factor
23 rating of 20 percent for each installation and shall keep class II production separate from class I
24 production. ~~[Providers of electricity required to obtain and retire certificates under RSA 362-F:3~~
25 ~~shall receive an annual credit for such production.]~~ By February 28 of each year, the commission
26 shall compute and make public ~~[credit percentages that are equal to the estimated production for the~~
27 ~~prior calendar year in each class divided by the total amount of electricity supplied by providers of~~
28 ~~electricity to end-use customers in the prior calendar year, with the result converted to a percentage.~~
29 ~~Each provider may then, at the time of its annual report filing under RSA 362-F:8, claim a class I~~
30 ~~and a class II certificate credit equal to the credit percentage times the total megawatt hours of~~

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1 ~~electricity supplied by the provider to its end-use customers the prior calendar year]~~ ***estimates of***
2 ***the total yearly production for such customer-sited sources.***

3 4 Effective Date. This act shall take effect 60 days after its passage.