

S T A T E O F N E W Y O R K

S. 4971--A

A. 7859--A

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 27, 2009

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Real Property Taxation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to increasing the value of the exemption for certain solar or wind energy systems or farm waste energy systems

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 487 of the real property tax law, as amended by
2 chapter 515 of the laws of 2002, subdivision 5 as amended by chapter 129
3 of the laws of 2006, and subdivision 9 as added by chapter 608 of the
4 laws of 2002, is amended to read as follows:
5 S 487. Exemption from taxation for certain solar or wind energy
6 systems or farm waste energy systems. 1. As used in this section:
7 (a) "Solar or wind energy equipment" means collectors, controls, ener-
8 gy storage devices, heat pumps and pumps, heat exchangers, windmills,
9 and other materials, hardware or equipment necessary to the process by
10 which solar radiation or wind is (i) collected, (ii) converted into
11 another form of energy such as thermal, electrical, mechanical or chemi-
12 cal, (iii) stored, (iv) protected from unnecessary dissipation and (v)
13 distributed. It does not include pipes, controls, insulation or other
14 equipment which are part of the normal heating, cooling, or insulation
15 system of a building. It does include insulated glazing or insulation to
16 the extent that such materials exceed the energy efficiency standards
17 required by law.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD10623-02-9

(b) "Solar or wind energy system" means an arrangement or combination of solar or wind energy equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar or wind energy and its conversion, storage, protection and distribution.

(c) "Authority" means the New York state energy research and development authority.

(d) ["Incremental cost" means the increased cost of a solar or wind energy system or farm waste energy system or component thereof which also serves as part of the building structure, above that for similar conventional construction, which enables its use as a solar or wind energy or farm waste energy system or component.

(e)] "Farm waste electric generating equipment" means equipment that generates electric energy from biogas produced by the anaerobic digestion of agricultural waste, such as livestock manure, farming waste and food processing wastes with a rated capacity of not more than four hundred kilowatts that is (i) manufactured, installed and operated in accordance with applicable government and industry standards, (ii) connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities, (iii) operated in compliance with the provisions of section sixty-six-j of the public service law, (iv) fueled at a minimum of ninety percent on an annual basis by biogas produced from the anaerobic digestion of agricultural waste such as livestock manure materials, crop residues and food processing wastes, and (v) fueled by biogas generated by anaerobic digestion with at least seventy-five percent by weight of its feedstock being livestock manure materials on an annual basis.

[(f)] (E) "Farm waste energy system" means an arrangement or combination of farm waste electric generating equipment or other materials, hardware or equipment necessary to the process by which agricultural waste biogas is produced, collected, stored, cleaned, and converted into forms of energy such as thermal, electrical, mechanical or chemical and by which the biogas and converted energy are distributed on-site. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling or insulation system of a building.

2. Real property which includes a solar or wind energy system or farm waste energy system approved in accordance with the provisions of this section shall be exempt from taxation to the extent of any increase in the value thereof by reason of the inclusion of such solar or wind energy system or farm waste energy system for a period of fifteen years. When a solar or wind energy system or components thereof or farm waste energy system also serve as part of the building structure, the [increase in value which] TOTAL COST OF THE SYSTEM shall be exempt from taxation [shall be equal to the assessed value attributable to such system or components multiplied by the ratio of the incremental cost of such system or components to the total cost of such system or components]. THE EXEMPTION SHALL BE EQUAL TO THE TOTAL COST OF THE SYSTEM. SUCH EXEMPTION SHALL BE SUBTRACTED FROM THE TOTAL ASSESSED VALUE OF THE REAL PROPERTY. THE TOTAL EXEMPTION IN NO CASE SHALL EXCEED FIFTY THOUSAND DOLLARS. WHERE THE MUNICIPALITY DOES NOT TAX AT FULL VALUE, SUCH EXEMPTION SHALL BE PRO-RATED.

3. The president of the authority shall provide definitions and guidelines for the eligibility for exemption of the solar and wind energy equipment and systems and farm waste energy equipment and systems described in paragraphs (a) and (b) of subdivision one of this section.

1 4. No solar or wind energy system or farm waste energy system shall be
2 entitled to any exemption from taxation under this section unless such
3 system meets the guidelines set by the president of the authority and
4 all other applicable provisions of law.

5 5. The exemption granted pursuant to this section shall only be appli-
6 cable to solar or wind energy systems or farm waste energy systems which
7 are (a) existing or constructed prior to July first, nineteen hundred
8 eighty-eight or (b) constructed subsequent to January first, nineteen
9 hundred ninety-one and prior to January first, two thousand [eleven]
10 TWENTY.

11 6. Such exemption shall be granted only upon application by the owner
12 of the real property on a form prescribed and made available by the
13 state board in cooperation with the authority. The applicant shall
14 furnish such information as the board shall require. The application
15 shall be filed with the assessor of the appropriate county, city, town
16 or village on or before the taxable status date of such county, city,
17 town or village. A copy of such application shall be filed with the
18 authority.

19 7. If the assessor is satisfied that the applicant is entitled to an
20 exemption pursuant to this section, he or she shall approve the applica-
21 tion and enter the taxable assessed value of the parcel for which an
22 exemption has been granted pursuant to this section on the assessment
23 roll with the taxable property, with the amount of the exemption as
24 computed pursuant to subdivision two of this section in a separate
25 column. In the event that real property granted an exemption pursuant to
26 this section ceases to be used primarily for eligible purposes, the
27 exemption granted pursuant to this section shall cease.

28 8. Notwithstanding the provisions of subdivision two of this section,
29 a county, city, town or village may by local law or a school district,
30 other than a school district to which article fifty-two of the education
31 law applies, may by resolution provide that no exemption under this
32 section shall be applicable within its jurisdiction with respect to any
33 solar or wind energy system or farm waste energy system constructed
34 subsequent to January first, nineteen hundred ninety-one or the effec-
35 tive date of such local law, ordinance or resolution, whichever is
36 later. A copy of any such local law or resolution shall be filed with
37 the state board and with the president of the authority.

38 9. (a) A county, city, town, village or school district, except a
39 school district under article fifty-two of the education law, that has
40 not acted to remove the exemption under this section may require the
41 owner of a property which includes a solar or wind energy system which
42 meets the requirements of subdivision four of this section, to enter
43 into a contract for payments in lieu of taxes. Such contract may require
44 annual payments in an amount not to exceed the amounts which would
45 otherwise be payable but for the exemption under this section.

46 (b) The payment in lieu of a tax agreement shall not operate for a
47 period of more than fifteen years, commencing in each instance from the
48 date on which the benefits of such exemption first become available and
49 effective.

50 S 2. This act shall take effect immediately.