

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

5835--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. KAVANAGH, COLTON, HOOPER, RAMOS, REILLY, STEVENSON -- Multi-Sponsored by -- M. of A. AMEDORE, CROUCH, McLAUGHLIN, PEOPLES-STOKES, P. RIVERA, SCHIMEL, THIELE -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing an exemption for alternative energy systems from the state's sales and compensating use taxes and authorizing counties and cities to elect such exemption from their sales and use taxes imposed by or pursuant to the authority of such law; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subdivision (b) of section 1101 of the tax law is amended
2 by adding a new paragraph 39 to read as follows:
3 (39) ALTERNATIVE ENERGY SYSTEMS, NEW ENERGY STAR APPLIANCES AND TANGI-
4 BLE PERSONAL PROPERTY USED IN OR ON HABITABLE RESIDENTIAL AND NON-RESI-
5 DENTIAL STRUCTURES FOR THE PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF
6 SUCH STRUCTURES CONSIST OF: (I) SYSTEMS WHICH DO NOT RELY ON PETROLEUM
7 PRODUCTS OR NATURAL GAS AS THEIR ENERGY SOURCE OR FUEL CELL ELECTRIC
8 GENERATION EQUIPMENT AS DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (G-2)
9 OF SECTION SIX HUNDRED SIX OF THIS CHAPTER; (II) NEW ENERGY STAR APPLI-
10 ANCES, INCLUDING RESIDENTIAL REFRIGERATORS, FREEZERS, CLOTHING WASHERS
11 (BUT NOT A COMBINATION WASHER/DRYER UNLESS THE CLOTHING IS WASHED AND
12 DRIED IN THE SAME COMPARTMENT), LIGHT FIXTURES WHICH USE A PIN-BASED
13 COMPACT FLUORESCENT BULB, NON-COMMERCIAL CEILING FANS OR CEILING FAN AND
14 LIGHT KITS, DISHWASHER OR AIR CONDITIONERS, SOLD AT RETAIL, PROVIDED
15 SUCH APPLIANCES QUALIFY FOR AND ARE LABELED WITH, AN ENERGY STAR LABEL
16 BY THE MANUFACTURER, PURSUANT TO AN AGREEMENT AMONG THE MANUFACTURER,

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

LBD03310-05-2

1 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE UNITED STATES
2 DEPARTMENT OF ENERGY; AND (III) TANGIBLE PERSONAL PROPERTY THAT IMPROVE
3 THE ENERGY EFFICIENCY OF RESIDENTIAL AND NON-RESIDENTIAL HEATING AND
4 COOLING SYSTEMS, INCLUDING BUT NOT LIMITED TO, INSULATION AND WEATHER
5 STRIPPING AND PRODUCTS, SUCH AS ROOFING, WINDOWS, DOORS AND SKYLIGHTS
6 APPROVED BY THE ENERGY STAR PROGRAM.

7 S 2. Subdivision (a) of section 1115 of the tax law is amended by
8 adding a new paragraph 44 to read as follows:

9 (44) ALTERNATIVE ENERGY SYSTEMS, NEW ENERGY STAR APPLIANCES AND TANGI-
10 BLE PERSONAL PROPERTY USED IN OR ON HABITABLE RESIDENTIAL AND NON-RESI-
11 DENTIAL STRUCTURES FOR THE PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF
12 SUCH STRUCTURES, AS DEFINED IN PARAGRAPH THIRTY-THREE OF SUBDIVISION (B)
13 OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE.

14 S 3. Clause 9 of subdivision (b) of section 1107 of the tax law, as
15 amended by section 78 of part A of chapter 56 of the laws of 1998, is
16 amended to read as follows:

17 (9) Except as otherwise provided by law, the [exemption] EXEMPTIONS
18 provided for in paragraph thirty of subdivision (a) of section eleven
19 hundred fifteen OF THIS ARTICLE relating to clothing and footwear AND
20 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
21 FIFTEEN OF THIS ARTICLE RELATING TO ALTERNATIVE ENERGY SYSTEMS shall not
22 apply.

23 S 4. Subdivision (f) of section 1109 of the tax law, as added by
24 section 118-a of part A of chapter 389 of the laws of 1997, is amended
25 to read as follows:

26 (f) The [exemption] EXEMPTIONS contained in [paragraph] PARAGRAPHS
27 thirty AND FORTY-FOUR of subdivision (a) of section eleven hundred
28 fifteen of this article shall not apply.

29 S 5. Section 1109 of the tax law is amended by adding a new subdivi-
30 sion (i) to read as follows:

31 (I) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
32 NANCE OR RESOLUTION TO THE CONTRARY: (1) IN THE EVENT THAT A COUNTY,
33 CITY OR SCHOOL DISTRICT LOCATED IN THE METROPOLITAN COMMUTER TRANSPORTA-
34 TION DISTRICT IMPOSES TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF
35 PART I OF ARTICLE TWENTY-NINE OF THIS CHAPTER AND ELECTS TO PROVIDE THE
36 ALTERNATIVE ENERGY SYSTEMS EXEMPTION AUTHORIZED IN PARAGRAPH ONE OF
37 SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS CHAPTER, OR A CITY
38 LOCATED IN SUCH DISTRICT IN WHICH THE TAXES PROVIDED FOR IN SECTION
39 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT ELECTS TO PROVIDE SUCH
40 ALTERNATIVE ENERGY SYSTEMS EXEMPTION FROM SUCH TAXES PURSUANT TO THE
41 AUTHORITY OF SUBDIVISION (P) OF SECTION TWELVE HUNDRED TEN OR OF SECTION
42 NINE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE WHICH ADDED THIS
43 SUBDIVISION, OR THE TAXES PROVIDED FOR IN SECTION ELEVEN HUNDRED EIGHT
44 OF THIS PART ARE IN EFFECT IN A CITY LOCATED IN SUCH DISTRICT, THE
45 EXEMPTION PROVIDED BY PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION
46 ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE SHALL BE APPLICABLE IN SUCH
47 PORTION OF THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN WHICH
48 SUCH COUNTY, CITY OR SCHOOL DISTRICT IS LOCATED. THE COMMISSIONER SHALL
49 DETERMINE AND CERTIFY TO THE COMPTROLLER THE AMOUNT OF REVENUE FORGONE
50 AT THE RATE OF ONE-QUARTER OF ONE PERCENT UNDER THIS SECTION IN SUCH
51 COUNTY, CITY OR SCHOOL DISTRICT ON ACCOUNT OF SALES OF ALTERNATIVE ENER-
52 GY SYSTEMS IN SUCH COUNTY, CITY OR SCHOOL DISTRICT.

53 (2) COMMENCING WITH THE SALES TAX QUARTERLY PERIOD WHICH COMMENCES ON
54 JUNE FIRST, TWO THOUSAND TWELVE, THE COMMISSIONER SHALL MAKE SUCH DETER-
55 MINATIONS AND CERTIFICATIONS ON THE TWELFTH DAY OF THE MONTH FOLLOWING
56 THE MONTH IN WHICH SALES TAX QUARTERLY RETURNS ARE DUE UNDER SECTION

1 ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE WITH RESPECT TO SUCH QUARTERLY
2 PERIOD FOR AS LONG AS SUCH ALTERNATIVE ENERGY SYSTEMS EXEMPTIONS FROM
3 SUCH TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF
4 THIS CHAPTER OR BY SECTION ELEVEN HUNDRED SEVEN OR ELEVEN HUNDRED EIGHT
5 OF THIS PART ARE IN EFFECT. NEITHER THE COMMISSIONER NOR THE COMPTROLLER
6 SHALL BE HELD LIABLE FOR ANY INACCURACY IN SUCH DETERMINATIONS AND
7 CERTIFICATIONS. SUCH DETERMINATIONS AND CERTIFICATIONS MAY BE BASED ON
8 SUCH INFORMATION AS MAY BE AVAILABLE TO THE COMMISSIONER AT THE TIME
9 SUCH DETERMINATIONS AND CERTIFICATIONS MUST BE MADE UNDER THIS SUBDIVI-
10 SION AND MAY BE ESTIMATED ON THE BASIS OF PERCENTAGES OR OTHER INDICES
11 CALCULATED FROM DISTRIBUTIONS FROM PRIOR PERIODS. THE COMMISSIONER SHALL
12 BE AUTHORIZED TO REQUIRE SUCH INFORMATION AS THE COMMISSIONER DEEMS
13 NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION FROM
14 PERSONS REQUIRED TO FILE RETURNS UNDER SECTION ELEVEN HUNDRED THIRTY-SIX
15 OF THIS ARTICLE.

16 (3) BY THE FIFTEENTH DAY OF THE MONTH IN WHICH THE COMMISSIONER HAS
17 MADE THE CERTIFICATIONS TO THE COMPTROLLER DESCRIBED IN PARAGRAPH TWO OF
18 THIS SUBDIVISION, THE COMPTROLLER SHALL BILL ANY COUNTY, CITY OR SCHOOL
19 DISTRICT IN SUCH METROPOLITAN COMMUTER TRANSPORTATION DISTRICT WHICH
20 PROVIDES SUCH ALTERNATIVE ENERGY SYSTEMS EXEMPTION, AND ANY CITY IN SUCH
21 DISTRICT IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF
22 THIS PART ARE IN EFFECT WHICH HAS ELECTED TO PROVIDE SUCH ALTERNATIVE
23 ENERGY SYSTEMS EXEMPTION, AND ANY CITY IN SUCH DISTRICT IN WHICH THE
24 TAXES IMPOSED BY SECTION ELEVEN HUNDRED EIGHT OF THIS PART ARE IN
25 EFFECT, AN AMOUNT EQUAL TO ONE-HALF OF THE AMOUNT CERTIFIED TO THE COMP-
26 TROLLER BY THE COMMISSIONER IN RESPECT OF SUCH COUNTY, CITY OR SCHOOL
27 DISTRICT; AND SUCH COUNTY, CITY OR SCHOOL DISTRICT SHALL PAY THE AMOUNT
28 OF SUCH BILL TO THE COMPTROLLER BY THE TWENTY-FIFTH DAY OF SUCH MONTH.
29 THE COMPTROLLER SHALL DEPOSIT ANY SUCH AMOUNTS RECEIVED IN THE MASS
30 TRANSPORTATION OPERATING ASSISTANCE FUND ESTABLISHED BY SECTION EIGHTY-
31 EIGHT-A OF THE STATE FINANCE LAW TO THE CREDIT OF THE METROPOLITAN MASS
32 TRANSPORTATION OPERATING ASSISTANCE ACCOUNT THEREIN.

33 (4) IN THE EVENT THAT A COUNTY, CITY OR SCHOOL DISTRICT IMPOSING TAX
34 PURSUANT TO THE AUTHORITY OF SUBPART B OF PART I OF ARTICLE TWENTY-NINE
35 OF THIS CHAPTER DOES NOT PAY IN FULL A BILL DESCRIBED IN PARAGRAPH THREE
36 OF THIS SUBDIVISION BY THE TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN
37 PARAGRAPHS TWO AND THREE OF THIS SUBDIVISION, THE COMPTROLLER SHALL
38 DEDUCT ANY AMOUNT NOT PAID FROM THE AMOUNT OF THE NEXT PAYMENT OR
39 PAYMENTS DUE SUCH COUNTY, CITY OR SCHOOL DISTRICT PURSUANT TO SUBDIVI-
40 SION (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER UNTIL SUCH
41 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE
42 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING
43 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS
44 SUBDIVISION.

45 (5) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION
46 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A
47 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE
48 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF
49 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM
50 THE AMOUNT OF THE NEXT PAYMENT OR PAYMENTS DUE SUCH CITY, WITH RESPECT
51 TO TAXES, PENALTY AND INTEREST IMPOSED PURSUANT TO THE AUTHORITY OF
52 SECTION TWELVE HUNDRED TWELVE-A OF THIS CHAPTER, PURSUANT TO SUBDIVISION
53 (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER, UNTIL SUCH
54 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE
55 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING

1 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS
2 SUBDIVISION.

3 (6) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION
4 ELEVEN HUNDRED EIGHT OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A
5 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE
6 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF
7 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM
8 THE AMOUNT OF ANY OTHER MONEYS DUE SUCH CITY FROM THE COMPTROLLER, NOT
9 OTHERWISE PLEDGED, DEDICATED OR ENCUMBERED PURSUANT TO OTHER STATE LAW,
10 UNTIL SUCH AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL
11 DEPOSIT THE AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION
12 OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE
13 OF THIS SUBDIVISION.

14 (7) THE COMMISSIONER SHALL CERTIFY THE AMOUNT OF ANY OVER CALCULATION
15 OR UNDER CALCULATION OF ANY CERTIFICATION REQUIRED TO BE MADE TO THE
16 COMPTROLLER UNDER PARAGRAPH THREE OF THIS SUBDIVISION AS SOON AFTER ITS
17 DISCOVERY AS REASONABLY POSSIBLE AND SUBSEQUENT BILLS TO A CITY, COUNTY
18 OR SCHOOL DISTRICT TO WHICH THE OVER CALCULATION OR UNDER CALCULATION
19 RELATES SHALL BE ADJUSTED ACCORDINGLY, PROVIDED THAT THE COMPTROLLER MAY
20 ADJUST SUCH NUMBER OF SUBSEQUENT BILLS AS THE COMPTROLLER SHALL CONSIDER
21 REASONABLE IN VIEW OF THE AMOUNT OF THE ADJUSTMENT AND ALL OTHER FACTS
22 AND CIRCUMSTANCES.

23 (8) ON THE SAME DATE THAT THE COMPTROLLER IS REQUIRED TO BILL A COUN-
24 TY, CITY OR SCHOOL DISTRICT AN AMOUNT AS PROVIDED IN PARAGRAPH THREE OF
25 THIS SUBDIVISION, THE COMPTROLLER SHALL, AFTER HAVING FIRST MADE ANY
26 DEPOSITS REQUIRED BY SECTION NINETY-TWO-R OF THE STATE FINANCE LAW AND
27 ONLY TO THE EXTENT THAT THERE ARE MONEYS REMAINING AFTER HAVING MADE
28 SUCH REQUIRED DEPOSITS, WITHDRAW FROM THE STATE TREASURY, TO THE DEBIT
29 OF THE GENERAL FUND, AN AMOUNT EQUAL TO THE TOTAL OF THE AMOUNTS
30 REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS PURSUANT
31 TO SUCH SUBDIVISION THREE AND DEPOSIT SUCH TOTAL AMOUNT IN THE MASS
32 TRANSPORTATION OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN
33 SUCH PARAGRAPH THREE. THE AMOUNT OF ANY OVER CALCULATION OR UNDER CALCU-
34 LATION DETERMINED IN PARAGRAPH SEVEN OF THIS SUBDIVISION SHALL LIKEWISE
35 BE APPLIED TO THE AMOUNTS REQUIRED TO BE DEPOSITED UNDER THIS PARAGRAPH,
36 SO THAT THE AMOUNTS DEPOSITED UNDER THIS PARAGRAPH EQUAL THE TOTAL OF
37 THE AMOUNTS REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL
38 DISTRICTS UNDER SUCH PARAGRAPH THREE, AS ADJUSTED, PURSUANT TO PARAGRAPH
39 SEVEN OF THIS SUBDIVISION.

40 S 6. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
41 amended by section 3 of part GG of chapter 57 of the laws of 2010, is
42 amended to read as follows:

43 (1) Either, all of the taxes described in article twenty-eight of this
44 chapter, at the same uniform rate, as to which taxes all provisions of
45 the local laws, ordinances or resolutions imposing such taxes shall be
46 identical, except as to rate and except as otherwise provided, with the
47 corresponding provisions in such article twenty-eight, including the
48 definition and exemption provisions of such article, so far as the
49 provisions of such article twenty-eight can be made applicable to the
50 taxes imposed by such city or county and with such limitations and
51 special provisions as are set forth in this article. The taxes author-
52 ized under this subdivision may not be imposed by a city or county
53 unless the local law, ordinance or resolution imposes such taxes so as
54 to include all portions and all types of receipts, charges or rents,
55 subject to state tax under sections eleven hundred five and eleven
56 hundred ten of this chapter, except as otherwise provided. (i) Any local

1 law, ordinance or resolution enacted by any city of less than one
2 million or by any county or school district, imposing the taxes author-
3 ized by this subdivision, shall, notwithstanding any provision of law to
4 the contrary, exclude from the operation of such local taxes all sales
5 of tangible personal property for use or consumption directly and
6 predominantly in the production of tangible personal property, gas,
7 electricity, refrigeration or steam, for sale, by manufacturing, proc-
8 essing, generating, assembly, refining, mining or extracting; and all
9 sales of tangible personal property for use or consumption predominantly
10 either in the production of tangible personal property, for sale, by
11 farming or in a commercial horse boarding operation, or in both; and,
12 unless such city, county or school district elects otherwise, shall omit
13 the provision for credit or refund contained in clause six of subdivi-
14 sion (a) or subdivision (d) of section eleven hundred nineteen of this
15 chapter. (ii) Any local law, ordinance or resolution enacted by any
16 city, county or school district, imposing the taxes authorized by this
17 subdivision, shall omit the residential solar energy systems equipment
18 exemption provided for in subdivision (ee) and the clothing and footwear
19 exemption provided for in paragraph thirty of subdivision (a) of section
20 eleven hundred fifteen of this chapter AND THE ALTERNATIVE ENERGY
21 SYSTEMS EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION
22 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, unless such city,
23 county or school district elects otherwise as to either such residential
24 solar energy systems equipment exemption or such clothing and footwear
25 exemption.

26 S 7. Subdivision (d) of section 1210 of the tax law, as amended by
27 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
28 read as follows:

29 (d) A local law, ordinance or resolution imposing any tax pursuant to
30 this section, increasing or decreasing the rate of such tax, repealing
31 or suspending such tax, exempting from such tax the energy sources and
32 services described in paragraph three of subdivision (a) or of subdivi-
33 sion (b) of this section or changing the rate of tax imposed on such
34 energy sources and services or providing for the credit or refund
35 described in clause six of subdivision (a) of section eleven hundred
36 nineteen of this chapter must go into effect only on one of the follow-
37 ing dates: March first, June first, September first or December first;
38 provided, that a local law, ordinance or resolution providing for the
39 exemption described in paragraph thirty OR FORTY-FOUR of subdivision (a)
40 of section eleven hundred fifteen of this chapter or repealing any such
41 exemption or a local law, ordinance or resolution providing for a refund
42 or credit described in subdivision (d) of section eleven hundred nine-
43 teen of this chapter or repealing such provision so provided must go
44 into effect only on March first. No such local law, ordinance or resol-
45 ution shall be effective unless a certified copy of such law, ordinance
46 or resolution is mailed by registered or certified mail to the commis-
47 sioner at the commissioner's office in Albany at least ninety days prior
48 to the date it is to become effective. However, the commissioner may
49 waive and reduce such ninety-day minimum notice requirement to a mailing
50 of such certified copy by registered or certified mail within a period
51 of not less than thirty days prior to such effective date if the commis-
52 sioner deems such action to be consistent with the commissioner's duties
53 under section twelve hundred fifty of this article and the commissioner
54 acts by resolution. Where the restriction provided for in section twelve
55 hundred twenty-three of this article as to the effective date of a tax
56 and the notice requirement provided for therein are applicable and have

not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

S 8. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDINANCE OR RESOLUTION TO THE CONTRARY:

(1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE SAME ALTERNATIVE ENERGY SYSTEMS EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE GOVERNOR.

(2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF LOCAL LEGISLATIVE BODY) AS FOLLOWS:

SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, ALTERNATIVE ENERGY SYSTEMS EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2013) AND SHALL APPLY TO SALES MADE AND USES OCCURRING ON OR AFTER SUCH DATE IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK TAX LAW.

S 9. Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (a) Any county or city imposing sales and compensating use taxes pursuant to the authority of subpart B of part 1 of article 29 of the tax law, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for alternative energy systems exempt from state sales and compensating use taxes described in paragraph 44 of subdivision (a) of section 1115 of the tax law, whether such taxes are imposed by local law, ordinance or resolution, by enacting a resolution exactly in the form set forth in subdivision (c) of this section; whereupon, upon compliance with the provisions of subdivision (d) of this section, such enactment of such resolution shall be deemed to amend such local law, ordinance or resolution imposing such taxes, and such local law, ordinance or resolution shall thenceforth be deemed to incorporate such exemption.

(b) Any city of one million or more in which the taxes imposed by section 1107 of the tax law are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same alternative energy systems exempt from state sales and compensating use taxes described in paragraph 44 of subdivision (a) of section 1115 of the tax law by enacting a resolution exactly in the form set forth in subdivision (c) of this section; whereupon, upon compliance with the provisions of subdivision

1 (d) of this section, such enactment of such resolution shall be deemed
2 to amend such section 1107 of the tax law and such section 1107 shall
3 thenceforth be deemed to incorporate such exemption as if it had been
4 duly enacted by the state legislature and approved by the governor and
5 such resolution shall also be deemed to amend any local law, ordinance
6 or resolution enacted by such a city imposing such taxes pursuant to the
7 authority of subdivision (a) of section 1210 of the tax law, whether or
8 not such taxes are suspended at the time such city enacts its resolu-
9 tion.

10 (c) Form of Resolution:
11 Be it enacted by the (insert proper title of local legislative body)
12 as follows:
13 Section one: The (county or city) of (insert locality's name) hereby
14 elects the alternative energy systems exemption commencing in January of
15 2013.
16 Section two: This resolution shall take effect immediately and shall
17 apply to sales made and uses occurring on or after such date, in accord-
18 ance with applicable transitional provisions of the New York tax law.

19 (d) A resolution adopted pursuant to this section shall be effective
20 only if it is adopted exactly as set forth in subdivision (c) of this
21 section and such county or city adopts it by December 31, 2012, mails a
22 certified copy of it to the commissioner of taxation and finance by
23 certified mail by such date and otherwise complies with the requirements
24 of subdivisions (d) and (e) of section 1210 of the tax law.

25 S 10. This act shall take effect immediately and shall expire and be
26 deemed repealed two years after such date and shall apply to sales made
27 and uses occurring during exemption periods on or after that date in
28 accordance with the applicable transitional provisions of sections 1106
29 and 1217 of the tax law.