

S. 2359--A

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2013-2014 Regular Sessions

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

January 16, 2013

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE, GOTTFRIED -- read once and referred to the Committee on Real Property Taxation -- recommitted to the Committee on Real Property Taxation 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 real property tax law, in relation to increasing the value of the exemption for certain renewable 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, paragraph (e) of subdivision 1 as
3 amended by chapter 272 of the laws of 2013, subdivision 5 as amended by
4 chapter 366 of the laws of 2010, subdivisions 6 and 8 as further amended
5 by section 1 of part W of chapter 56 of the laws of 2010 and subdivision
6 9 as added by chapter 608 of the laws of 2002, is amended to read as
7 follows:
8 S 487. Exemption from taxation for certain [solar or wind] RENEWABLE
9 energy systems or farm waste energy systems. 1. As used in this section:
10 (a) "[Solar or wind] RENEWABLE energy equipment" means collectors,
11 controls, energy storage devices, heat pumps and pumps, heat exchangers,
12 windmills, and other materials, hardware or equipment necessary to the
13 process by which solar radiation, GEOTHERMAL ENERGY or wind is (i)
14 collected, (ii) converted into another form of energy such as thermal,
15 electrical, mechanical or chemical, (iii) stored, (iv) protected from
16 unnecessary dissipation and (v) distributed. It does not include pipes,
17 controls, insulation or other equipment which are part of the normal
18 heating, cooling, or insulation system of a building. It does include

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

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1 insulated glazing or insulation to the extent that such materials exceed
2 the energy efficiency standards required by law.

3 (b) "[Solar or wind] RENEWABLE energy system" means an arrangement or
4 combination of solar or wind energy equipment designed to provide heat-
5 ing, cooling, hot water, or mechanical, chemical, or electrical energy
6 by the collection of solar, GEOTHERMAL ENERGY or wind energy and its
7 conversion, storage, protection and distribution.

8 (c) "Authority" means the New York state energy research and develop-
9 ment authority.

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

15 (e)] "Farm waste electric generating equipment" means equipment that
16 generates electric energy from biogas produced by the anaerobic
17 digestion of agricultural waste, such as livestock manure, farming waste
18 and food processing wastes with a rated capacity of not more than one
19 thousand kilowatts that is (i) manufactured, installed and operated in
20 accordance with applicable government and industry standards, (ii)
21 connected to the electric system and operated in conjunction with an
22 electric corporation's transmission and distribution facilities, (iii)
23 operated in compliance with the provisions of section sixty-six-j of the
24 public service law, (iv) fueled at a minimum of ninety percent on an
25 annual basis by biogas produced from the anaerobic digestion of agricul-
26 tural waste such as livestock manure materials, crop residues and food
27 processing wastes, and (v) fueled by biogas generated by anaerobic
28 digestion with at least fifty percent by weight of its feedstock being
29 livestock manure materials on an annual basis.

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

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

1 3. The president of the authority shall provide definitions and guide-
2 lines for the eligibility for exemption of the [solar and wind] RENEWA-
3 BLE energy equipment and systems and farm waste energy equipment and
4 systems described in paragraphs (a) and (b) of subdivision one of this
5 section.

6 4. No [solar or wind] RENEWABLE energy system or farm waste energy
7 system shall be entitled to any exemption from taxation under this
8 section unless such system meets the guidelines set by the president of
9 the authority and all other applicable provisions of law.

10 5. The exemption granted pursuant to this section shall only be appli-
11 cable to [solar or wind] RENEWABLE energy systems or farm waste energy
12 systems which are (a) existing or constructed prior to July first, nine-
13 teen hundred eighty-eight or (b) constructed subsequent to January
14 first, nineteen hundred ninety-one and prior to January first, two thou-
15 sand [fifteen] TWENTY-FOUR.

16 6. Such exemption shall be granted only upon application by the owner
17 of the real property on a form prescribed and made available by the
18 commissioner in cooperation with the authority. The applicant shall
19 furnish such information as the commissioner shall require. The applica-
20 tion shall be filed with the assessor of the appropriate county, city,
21 town or village on or before the taxable status date of such county,
22 city, town or village. A copy of such application shall be filed with
23 the authority.

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

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

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

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

55 S 2. This act shall take effect immediately.