

5277--A

2015-2016 Regular Sessions

I N   S E N A T E

May 12, 2015

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Introduced by Sens. FUNKE, AMEDORE, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to the creation of the New York Farm-to-Urban Consumer Solar Access Act of 2016

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

1     Section 1. Legislative intent and purpose. It is the intent of the  
2     Legislature to extend access to the savings and benefits of solar power  
3     to electricity consumers that reside in multifamily buildings by allow-  
4     ing these consumers to share in the savings and benefits of solar power  
5     systems located on agricultural land or other qualified properties  
6     including landfills and brownfields. By extending the state's abundant  
7     solar energy resources to more consumers, it is the further intent of  
8     the Legislature to reduce the costs for electricity incurred by consum-  
9     ers residing in multifamily buildings, to increase the benefits that  
10    accrue to electricity consumers that reside in multifamily properties  
11    from the payment of the system benefit charge, to create new sources of  
12    income for owners of agricultural land and other qualifying properties,  
13    and to create jobs and increase economic growth for the citizens of the  
14    State.

15    S 2. Short title. This act shall be known and may be cited as the "New  
16    York Farm-to-Urban Consumer Solar Access Act of 2016".

17    S 3. The public service law is amended by adding a new article 12 to  
18    read as follows:

19                                    ARTICLE 12

20                                    SHARED SOLAR POWER

21    SECTION 240. DEFINITIONS.

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

LBD11026-02-6

## 241. SHARED SOLAR POWER.

S 240. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "SOLAR ELECTRIC GENERATING EQUIPMENT" MEANS A PHOTOVOLTAIC SYSTEM THAT IS: (A) INTERCONNECTED TO THE DISTRIBUTION SYSTEM ON THE CUSTOMER SIDE OF THE ELECTRIC DISTRIBUTION COMPANY METER, (B) OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES AND IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS ESTABLISHED UNDER SECTION SIXTY-SIX-J OF THIS CHAPTER, (C) WITH A RATED CAPACITY OF NOT MORE THAN TWO HUNDRED KILOWATTS UNTIL THE END OF TWO THOUSAND SEVENTEEN, FIVE HUNDRED KILOWATTS UNTIL THE END OF TWO THOUSAND EIGHTEEN AND THE COMMISSION MAY, THROUGH A FORMAL PROCEEDING INCREASE THE RATED CAPACITY TO AN AGGREGATE TOTAL OF ONE MEGAWATT THROUGH A FORMAL PROCEEDING AT ANY TIME AFTER JANUARY FIRST, TWO THOUSAND NINETEEN, AND (D) THAT IS MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS.

2. "CUSTOMER-GENERATOR" MEANS A RESIDENTIAL OR NON-RESIDENTIAL CUSTOMER OF AN ELECTRIC CORPORATION WHO OWNS OR OPERATES SOLAR ELECTRIC GENERATING EQUIPMENT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, LOCATED AND USED AT HIS OR HER FARM OPERATION, AS SUCH TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; OR A NON-RESIDENTIAL CUSTOMER OF AN ELECTRIC CORPORATION WHICH OWNS OR OPERATES SOLAR ELECTRIC GENERATING EQUIPMENT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, LOCATED AND USED AT A QUALIFIED SITE PURSUANT TO SUBDIVISION NINE OF THIS SECTION.

3. "NET ENERGY METER" MEANS A METER THAT MEASURES THE REVERSE FLOW OF ELECTRICITY TO REGISTER THE DIFFERENCE BETWEEN THE ELECTRICITY SUPPLIED BY AN ELECTRIC CORPORATION TO THE CUSTOMER-GENERATOR AND THE ELECTRICITY PROVIDED TO THE CORPORATION BY THAT CUSTOMER-GENERATOR.

4. "NET ENERGY METERING" MEANS THE USE OF A NET ENERGY METER TO MEASURE, DURING THE BILLING PERIOD APPLICABLE TO A CUSTOMER-GENERATOR, THE NET AMOUNT OF ELECTRICITY SUPPLIED BY AN ELECTRIC CORPORATION AND PROVIDED TO THE CORPORATION BY A CUSTOMER-GENERATOR.

5. "ELECTRIC UTILITY" MEANS ANY INVESTOR-OWNED UTILITY THAT DISTRIBUTES ELECTRICITY WITHIN THIS STATE.

6. "QUALIFIED CONSUMER" SHALL MEAN AN ELECTRIC SERVICE ACCOUNT HOLDER OF AN ELECTRIC UTILITY WHO RESIDES IN A BUILDING OF GREATER THAN FOUR HOUSING UNITS OR IN A CONDOMINIUM OR HOUSING COOPERATIVE LOCATED IN THE SERVICE TERRITORY OF THE ELECTRIC UTILITY OR ANY OF ITS WHOLLY OWNED SUBSIDIARIES, IN WHICH THE SHARED SOLAR POWER FACILITY, AS DEFINED IN SUBDIVISION EIGHT OF THIS SECTION, IS LOCATED; OR WHO RESIDES WITHIN FIVE MILES OF A FARM OPERATION AS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW THAT IS ALSO A QUALIFIED SITE UNDER THE PROVISIONS OF THIS CHAPTER AND IS LOCATED IN THE SERVICE TERRITORY OF THE ELECTRIC UTILITY.

7. "QUALIFIED SOLAR ENERGY GENERATION" MEANS ELECTRIC OUTPUT MEASURED IN KWH FROM A SHARED SOLAR POWER FACILITY AS DEFINED IN SUBDIVISION EIGHT OF THIS SECTION.

8. "SHARED SOLAR POWER FACILITY" MEANS SOLAR ELECTRIC GENERATING EQUIPMENT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, WHOSE OWNER HOLDS THE TITLE OR LEASEHOLD OF A "QUALIFIED SITE" AS DEFINED IN SUBDIVISION NINE OF THIS SECTION, AND THAT ELECTS TO ASSIGN NET METERING CREDITS TO "QUALIFIED CONSUMERS", AS DEFINED IN SUBDIVISION SIX OF THIS SECTION, ACCORDING TO THE REQUIREMENTS OF THIS ARTICLE.

9. "QUALIFIED SITE" SHALL MEAN: (A) PROPERTY USED FOR FARM OPERATIONS AS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE

1 AGRICULTURE AND MARKETS LAW; OR (B) PROPERTY OWNED OR LEASED BY ANY  
2 LEGAL ENTITY THAT IS ORGANIZED AS A NOT FOR PROFIT OR A LANDFILL, OR AN  
3 AREA DESIGNATED AS A BROWNFIELD.

4 10. "SOLAR SUBSCRIPTION" MEANS A CONTRACT MADE BY THE OWNER OF A QUAL-  
5 IFIED SITE ASSIGNING A PRO-RATE SHARE, WHOSE NUMERATOR IS ONE AND WHOSE  
6 DENOMINATOR IS THE NUMBER OF QUALIFIED CONSUMERS TO WHOM THE NET METER-  
7 ING CREDITS OF THE SHARED SOLAR POWER FACILITY ARE BEING ALLOCATED, TO A  
8 QUALIFIED CONSUMER WITH A MINIMUM LENGTH OF THREE YEARS, A MAXIMUM  
9 LENGTH OF TEN YEARS, A FIXED ANNUAL RENEWAL DATE, A PROVISION PROVIDING  
10 THE QUALIFIED CONSUMER WITH THE RIGHT TO END THEIR SUBSCRIPTION ON THE  
11 ANNUAL RENEWAL DATE WITH SIXTY DAYS NOTICE TO THE OWNER.

12 11. "SHARED SOLAR POWER ALLOCATION SCHEDULE" SHALL MEAN AN ATTACHMENT  
13 TO THE SCHEDULE PRESCRIBED IN SUBDIVISION THREE OF SECTION SIXTY-SIX-J  
14 OF THIS CHAPTER, PUBLISHED BY EACH ELECTRIC UTILITY, TO BE FILLED OUT  
15 ELECTRONICALLY BY THE SHARED FACILITY OWNER AND FILED ELECTRONICALLY  
16 WITH THE ELECTRIC UTILITY TO SHOW THE PRORATED SHARE OF THE KWH PRODUCED  
17 BY THE SHARED SOLAR FACILITY TO BE ALLOCATED TO A UTILITY ACCOUNT HOLD-  
18 ER. WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE EACH ELEC-  
19 TRIC UTILITY SHALL SUBMIT ITS ATTACHMENT SCHEDULE AND DESCRIBE ITS  
20 FILING PROCEDURES TO THE COMMISSION.

21 S 241. SHARED SOLAR POWER. 1. THE KWH OF ELECTRICITY GENERATED BY A  
22 SHARED SOLAR FACILITY DURING EACH ELECTRIC UTILITY BILLING PERIOD SHALL  
23 BE ALLOCATED BY THE OWNER OF THE SHARED SOLAR FACILITY ACCORDING TO THE  
24 TERMS OF THE SUBSCRIPTION AGREEMENT FOR EACH SUBSCRIBING CONSUMER. THE  
25 ALLOCATION SHALL BE RECORDED AND FILED WITH THE ELECTRIC UTILITY WHOSE  
26 ACCOUNT HOLDERS ARE SUBSCRIBERS. THE AMOUNT OF THE NET METERING CREDITS  
27 TO BE ATTRIBUTED TO EACH SUCH CUSTOMER SHALL BE DETERMINED BY THE ALLO-  
28 CATION PROVIDED BY THE SHARED SOLAR FACILITY. THE CREDIT WILL BE  
29 APPLIED TO THE MONTHLY BILL OF EACH SUBSCRIPTION HOLDER WITH A  
30 SUBSCRIPTION AGREEMENT AT THE SAME RATE AS THE CUSTOMER PAYS ON THEIR  
31 PRIMARY ACCOUNT. CREDITS MAY BE CARRIED FORWARD BY SUCH CUSTOMERS FROM  
32 MONTH TO MONTH. WRITTEN NOTICE OF THE IDENTITY OF THE CUSTOMERS SO  
33 DESIGNATED AND THE ALLOCATION OF THE CREDITS TO BE ATTRIBUTED TO SUCH  
34 CUSTOMERS SHALL BE IN SUCH FORM AS REQUIRED BY THE PROVISIONS DESCRIBED  
35 IN SUBDIVISION TEN OF SECTION TWO HUNDRED FORTY OF THIS ARTICLE.

36 2. A SOLAR SUBSCRIPTION SHALL NOT BE CONSIDERED AS A SECURITY.

37 3. A CUSTOMER-GENERATOR WHO OWNS A SHARED SOLAR FACILITY AT A QUALI-  
38 FIED SITE MAY DESIGNATE ALL OR A PORTION OF THE NET METERING CREDITS  
39 GENERATED BY SUCH EQUIPMENT TO QUALIFIED CONSUMERS WHO RESIDE WITHIN  
40 THAT UTILITY SERVICE TERRITORY.

41 4. ALL RENEWABLE ENERGY CREDITS PRODUCED BY THE SHARED SOLAR FACILITY  
42 SHALL, NOT WITHSTANDING THE TERMS AND CONDITIONS OF ANY INCENTIVE  
43 PROGRAM FOR WHICH THE OWNER IS ELIGIBLE, REMAIN THE PROPERTY OF THE  
44 OWNER OF THE SHARED SOLAR FACILITY.

45 5. SHARED SOLAR FACILITIES SHALL BE EXEMPT FROM THE LIMITATIONS SET  
46 FORTH IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION THREE OF  
47 SECTION SIXTY-SIX-J OF THIS CHAPTER. SHARED SOLAR FACILITIES SHALL BE  
48 SUBJECT TO ALL SAFETY STANDARDS AS SET FORTH IN SUBDIVISION FIVE OF SUCH  
49 SECTION.

50 6. EACH RETAIL ELECTRIC SUPPLIER THAT IS AN ELECTRIC DISTRIBUTION  
51 COMPANY SHALL BE ENTITLED TO RECOVER THE PRUDENTLY INCURRED COSTS OF  
52 COMPLYING WITH ITS OBLIGATIONS, AS DETERMINED BY THE COMMISSION. ALL  
53 SUCH COSTS SHALL BE RECOVERED THROUGH THE SUPPLY PORTION OF EACH ELEC-  
54 TRIC CUSTOMER'S BILL IN A COMPETITIVELY NEUTRAL MANNER.

55 7. THE COMMISSION MAY IN ITS DISCRETION AND THROUGH A FORMAL PROCEED-  
56 ING, SUSPEND THIS PROGRAM IF IT IS DETERMINED TO HAVE A SUBSTANTIAL

1 NEGATIVE IMPACT ON THE UTILITY COSTS OF RATEPAYERS, OR IF IT IS DETER-  
2 MINED THAT THE FURTHER OPERATION OF THE PROGRAM IS NOT IN THE PUBLIC  
3 INTEREST. IF THE COMMISSION SHOULD ISSUE AN ORDER PURSUANT TO THIS  
4 SUBDIVISION, ALL PROJECTS ALREADY UNDER CONTRACT AS OF THE DATE OF THE  
5 ORDER WOULD BE HELD HARMLESS AND ALLOWED TO OPERATE UNDER THE CONDITIONS  
6 THAT EXIST PRIOR TO SUCH ORDER.

7 S 4. Severability. If any provision of this act is, for any reason,  
8 declared unconstitutional or invalid, in whole or in part, by any court  
9 of competent jurisdiction, such portion shall be deemed severable, and  
10 such unconstitutionality or invalidity shall not affect the validity of  
11 the remaining provisions of this act, which remaining provisions shall  
12 continue in full force and effect.

13 S 5. This act shall take effect immediately.