

S. 3465

A. 4961

2015-2016 Regular Sessions

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

February 10, 2015

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IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. THIELE, GOTTFRIED -- read once and referred to the Committee on Real Property Taxation

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, subdivisions 5 and 8 and  
4 paragraph (a) of subdivision 9 as amended by chapter 344 of the laws of  
5 2014, subdivision 6 as further amended by subdivision (b) of section 1  
6 of part W of chapter 56 of the laws of 2010 and subdivision 9 as added  
7 by chapter 608 of the laws of 2002, is amended to read as 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  
19 insulated glazing or insulation to the extent that such materials exceed  
20 the energy efficiency standards required by law.

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

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(b) "[Solar or wind] RENEWABLE 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, GEOTHERMAL ENERGY 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 one thousand 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 fifty 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] RENEWABLE 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] RENEWABLE energy system or farm waste energy system for a period of fifteen years. When a [solar or wind] RENEWABLE 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 BASED UPON THE APPLICABLE EQUALIZATION RATE.

3. The president of the authority shall provide definitions and guidelines for the eligibility for exemption of the [solar and wind] RENEWABLE energy equipment and systems and farm waste energy equipment and

1 systems described in paragraphs (a) and (b) of subdivision one of this  
2 section.

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

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

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

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

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

41 (b) Construction of a [solar or wind] RENEWABLE energy system or a  
42 farm waste energy system shall be deemed to have begun upon the full  
43 execution of a contract or interconnection agreement with a utility;  
44 provided however, that if such contract or interconnection agreement  
45 requires a deposit to be made, then construction shall be deemed to have  
46 begun when the contract or interconnection agreement is fully executed  
47 and the deposit is made. The owner or developer of such a system shall  
48 provide written notification to the appropriate local jurisdiction or  
49 jurisdictions upon execution of the contract or the interconnection  
50 agreement.

51 9. (a) A county, city, town, village or school district, except a  
52 school district under article fifty-two of the education law, that has  
53 not acted to remove the exemption under this section may require the  
54 owner of a property which includes a [solar or wind] RENEWABLE energy  
55 system which meets the requirements of subdivision four of this section,  
56 to enter into a contract for payments in lieu of taxes. Such contract

1 may require annual payments in an amount not to exceed the amounts which  
2 would otherwise be payable but for the exemption under this section. If  
3 the owner or developer of such a system provides written notification to  
4 a taxing jurisdiction of its intent to construct such a system, then in  
5 order to require the owner or developer of such system to enter into a  
6 contract for payments in lieu of taxes, such taxing jurisdiction must  
7 notify such owner or developer of its intent to require a contract for  
8 payments in lieu of taxes within sixty days of receiving the written  
9 notification.

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

14 S 2. This act shall take effect immediately.