STATE OF NEW YORK

4138--A

2017-2018 Regular Sessions

IN ASSEMBLY

February 1, 2017

Introduced by M. of A. MAGEE -- 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 property tax benefits for anaerobic digestion of agricultural waste; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 483-a of the real property tax law, as amended by section 1 of part P of chapter 57 of the laws of 2016, is amended to read as follows:

1. The following structures permanently affixed to [~~agricultural~~] land shall be exempt from taxation, special ad valorem levies and special assessments: (a) structures for the purpose of preserving and storing forage in edible condition; (b) farm feed grain storage bins; (c) commodity sheds; (d) bulk milk tanks and coolers used to hold milk awaiting shipment to market; and (e) manure storage, handling and treatment facilities, including **but not limited to,** composting of agricultural materials, such as livestock manure and farming wastes, food residuals or other organic wastes associated with food production or consumption with at least fifty percent by weight of its feedstock on an annual basis being livestock manure, farming wastes and crops grown specifically for use as composting feedstock. "Food residuals" means organic material, including, but not limited to, food scraps, food processing residue, and related soiled or unrecyclable paper used in food packaging, preparation or cleanup.

§ 2. Paragraphs (e) and (f) of subdivision 1 of section 487 of the real property tax law are REPEALED.

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

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§ 3. Paragraph (d) of subdivision 1 of section 487 of the real property tax law, as amended by chapter 515 of the laws of 2002, is amended to read as follows:

(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.

§ 4. Subdivisions 2, 3, 4, 5 and 8 of section 487 of the real property tax law, subdivisions 2, 3, 4, and 5 and paragraph (a) of subdivision 8 as amended by chapter 336 of the laws of 2017 and subdivision 8 as amended by chapter 344 of the laws of 2014, are amended to read as follows:

2. Real property which includes a solar or wind energy system, [~~farm waste energy system,~~] micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, or electric energy storage equipment and electric energy storage 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, [~~farm waste energy system,~~] micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, or electric energy storage equipment and electric energy storage system for a period of fifteen years. When a solar or wind energy system or components thereof, [~~farm waste energy system,~~] micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, or electric energy storage equipment and electric energy storage system also serve as part of the building structure, the increase in value which 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 provided by this section is inapplicable to any structure that satisfies the requirements for exemption under section four hundred eighty-three-e of this title.

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, [~~farm waste energy equipment and systems,~~] micro-hydroelectric equipment and systems, fuel cell electric generating equipment and systems, micro-combined heat and power generating equipment and systems and electric energy storage equipment and electric energy storage system described in paragraphs (a), (b), (e), (f), (g), (h), (i), (j), (k), (l), (m) and (n) of subdivision one of this section.

4. No solar or wind energy system, [~~farm waste energy system,~~] micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, or electric energy storage equipment and electric energy storage system shall be entitled to any exemption from taxation under this section unless such system meets the guidelines set by the president of the authority and all other applicable provisions of law.

5. The exemption granted pursuant to this section shall only be applicable to (a) solar or wind energy systems [~~or farm waste energy systems~~] which are (i) existing or constructed prior to July first, nineteen hundred eighty-eight or (ii) constructed subsequent to January first, nineteen hundred ninety-one and prior to January first, two thousand twenty-five, and (b) micro-hydroelectric energy systems, fuel cell elec-

tric generating systems, micro-combined heat and power generating equipment systems, or electric energy storage equipment or electric energy storage system which are constructed subsequent to January first, two thousand eighteen and prior to January first, two thousand twenty-five.

8. (a) Notwithstanding the provisions of subdivision two of this section, a county, city, town or village may by local law or a school district, other than a school district to which article fifty-two of the education law applies, may by resolution provide either (i) that no exemption under this section shall be applicable within its jurisdiction with respect to any solar or wind energy system [~~or farm waste energy system~~] which began construction subsequent to January first, nineteen hundred ninety-one or the effective date of such local law, ordinance or resolution, whichever is later, and/or (ii) that no exemption under this section shall be applicable within its jurisdiction with respect to any micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, or electric energy storage equipment or electric energy storage system constructed subsequent to January first, two thousand eighteen or the effective date of such local law, ordinance or resolution, whichever is later. A copy of any such local law or resolution shall be filed with the commissioner and with the president of the authority.

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

§ 5. This act shall take effect immediately and shall apply to the taxable year of 2017 and thereafter.