

# STATE OF NEW YORK

9961

## IN SENATE

December 13, 2024

Introduced by Sen. CANZONERI-FITZPATRICK -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to the solar energy system equipment credit; to amend the real property tax law, in relation to a solar STAR credit; and to amend the public service law, in relation to siting major renewable energy facilities

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

1 Section 1. Subsection (g-1) of section 606 of the tax law, as amended  
2 by chapter 378 of the laws of 2005, paragraphs 1 and 2 as amended by  
3 chapter 375 of the laws of 2012, paragraph 3 as amended, paragraph 5 as  
4 added, and paragraphs 6, 7 and 8 as renumbered by chapter 128 of the  
5 laws of 2007, is amended to read as follows:

6 (g-1) Solar energy system equipment credit. (1) General. An individual  
7 taxpayer shall be allowed a credit against the tax imposed by this arti-  
8 cle equal to [~~twenty-five~~] forty percent of qualified solar energy  
9 system equipment expenditures, except as provided in subparagraph (D) of  
10 paragraph two of this subsection. This credit shall not exceed three  
11 thousand seven hundred fifty dollars for qualified solar energy equip-  
12 ment placed in service before September first, two thousand six, [~~and~~]  
13 five thousand dollars for qualified solar energy equipment placed in  
14 service on or after September first, two thousand six and before January  
15 first, two thousand twenty-five, and ten thousand dollars for qualified  
16 solar energy equipment placed in service on or after January first, two  
17 thousand twenty-five.

18 (2) Qualified solar energy system equipment expenditures. (A) The term  
19 "qualified solar energy system equipment expenditures" means expendi-  
20 tures for:

21 (i) the purchase of solar energy system equipment which is installed  
22 in connection with residential property which is (I) located in this  
23 state and (II) which is used by the taxpayer as [~~his or her~~] their prin-  
24 cipal residence at the time the solar energy system equipment is placed  
25 in service;

26 (ii) the lease of solar energy system equipment under a written agree-  
27 ment that spans at least ten years where such equipment owned by a  
28 person other than the taxpayer is installed in connection with residen-  
29 tial property which is (I) located in this state and (II) which is used

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

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1 by the taxpayer as [~~his or her~~] their principal residence at the time  
2 the solar energy system equipment is placed in service; or

3 (iii) the purchase of power under a written agreement that spans at  
4 least ten years whereunder the power purchased is generated by solar  
5 energy system equipment owned by a person other than the taxpayer which  
6 is installed in connection with residential property which is (I)  
7 located in this state and (II) which is used by the taxpayer as [~~his or~~  
8 ~~her~~] their principal residence at the time the solar energy system  
9 equipment is placed in service.

10 (B) Such qualified expenditures shall include expenditures for materi-  
11 als, labor costs properly allocable to on-site preparation, assembly and  
12 original installation, architectural and engineering services, and  
13 designs and plans directly related to the construction or installation  
14 of the solar energy system equipment.

15 (C) Such qualified expenditures for the purchase of solar energy  
16 system equipment shall not include interest or other finance charges.

17 (D) Such qualified expenditures for the lease of solar energy system  
18 equipment or the purchase of power under an agreement described in  
19 clauses (ii) or (iii) of subparagraph (A) of this paragraph shall  
20 include an amount equal to all payments made during the taxable year  
21 under such agreement. Provided, however, such credits shall only be  
22 allowed for fourteen years after the first taxable year in which such  
23 credit is allowed. Provided further, however, the [~~twenty-five~~] forty  
24 percent limitation in paragraph one of this subsection shall only apply  
25 to the total aggregate amount of all payments to be made pursuant to an  
26 agreement referenced in clauses (ii) or (iii) of subparagraph (A) of  
27 this paragraph, and shall not apply to individual payments made during a  
28 taxable year under such agreement except to the extent such limitation  
29 on an aggregate basis has been reached.

30 (3) Solar energy system equipment. The term "solar energy system  
31 equipment" shall mean an arrangement or combination of components  
32 utilizing solar radiation, which, when installed in a residence, produc-  
33 es and may store energy designed to provide heating, cooling, hot water  
34 or electricity for use in such residence. Such arrangement or components  
35 may include electric energy storage equipment but shall not include any  
36 other equipment connected to solar energy system equipment that is a  
37 component of part or parts of a non-solar energy system or which uses  
38 any sort of recreational facility or equipment as a storage medium.  
39 Solar energy system equipment that generates and stores electricity for  
40 use in a residence must conform to applicable requirements set forth in  
41 section sixty-six-j of the public service law. Provided, however, where  
42 solar energy system equipment is purchased and installed by a condomin-  
43 ium management association or a cooperative housing corporation, for  
44 purposes of this subsection only, the term "ten kilowatts" in such  
45 section sixty-six-j shall be read as "[~~fifty~~] ten" kilowatts multiplied  
46 by the number of owner-occupied units in the cooperative or condominium  
47 management association.

48 (4) Multiple taxpayers. Where solar energy system equipment is  
49 purchased and installed in a principal residence shared by two or more  
50 taxpayers, the amount of the credit allowable under this subsection for  
51 each such taxpayer shall be prorated according to the percentage of the  
52 total expenditure for such solar energy system equipment contributed by  
53 each taxpayer.

54 (5) Proportionate share. Where solar energy system equipment is  
55 purchased and installed by a condominium management association or a  
56 cooperative housing corporation, a taxpayer who is a member of the

1 condominium management association or who is a tenant-stockholder in the  
2 cooperative housing corporation may for the purpose of this subsection  
3 claim a proportionate share of the total expense as the expenditure for  
4 the purposes of the credit attributable to [~~his~~] their principal resi-  
5 dence.

6 (6) Grants. For purposes of determining the amount of the expenditure  
7 incurred in purchasing and installing solar energy system equipment, the  
8 amount of any federal, state or local grant received by the taxpayer,  
9 which was used for the purchase and/or installation of such equipment  
10 and which was not included in the federal gross income of the taxpayer,  
11 shall not be included in the amount of such expenditures.

12 (7) When credit allowed. The credit provided for herein shall be  
13 allowed with respect to the taxable year, commencing after nineteen  
14 hundred ninety-seven, in which the solar energy system equipment is  
15 placed in service.

16 (8) Carryover of credit and refundability. If the amount of the cred-  
17 it, and carryovers of such credit, allowable under this subsection for  
18 any taxable year shall exceed the taxpayer's tax for such year, such  
19 excess amount may be carried over to the five taxable years next follow-  
20 ing the taxable year with respect to which the credit is allowed and may  
21 be deducted from the taxpayer's tax for such year or years. For taxable  
22 years beginning on or after January first, two thousand twenty-five, if  
23 the amount of the credit allowable under this subsection shall exceed  
24 the taxpayer's tax liability for such year, the excess shall be treated  
25 as an overpayment of tax to be credited or refunded in accordance with  
26 the provisions of section six hundred eighty-six of this article,  
27 provided, however, that no interest shall be paid thereon.

28 § 2. The real property tax law is amended by adding a new section  
29 425-b to read as follows:

30 § 425-b. Solar STAR credit. 1. For the purposes of this section, a  
31 midscale solar energy project shall mean a solar powered project with at  
32 least one megawatt but no more than five megawatts of alternating name-  
33 plate capacity.

34 2. Homeowners in municipalities that agree to host at least two mids-  
35 cale solar energy projects, not including any project that has already  
36 begun substantial construction, shall be eligible for a solar STAR cred-  
37 it for all homeowners living in such municipality. Homeowners shall  
38 apply for and receive a solar STAR credit in the same manner and at the  
39 same time as the existing STAR credit under section four hundred twen-  
40 ty-five of this article and section six hundred six of the tax law. The  
41 value of the credit shall be equal to twenty-five percent of the total  
42 basic star credit available to qualified homeowners. This credit will be  
43 applied only after the conclusion of construction and interconnection of  
44 the second midscale solar project as defined. Such credit will be avail-  
45 able to eligible homeowners for a period of ten years.

46 § 3. Subdivision 1 of section 140 of the public service law, as added  
47 by section 11 of part O of chapter 58 of the laws of 2024, is amended to  
48 read as follows:

49 1. No person shall commence the preparation of a site for, or begin  
50 the construction of, a major renewable energy facility in the state, or  
51 increase the capacity of an existing major renewable energy facility,  
52 without having first obtained a major renewable energy facility siting  
53 permit pursuant to this article and any permit required by a munici-  
54 pality in which the major renewable energy facility will be located. Any  
55 major renewable energy facility subject to this article with respect to  
56 which a siting permit is issued shall not thereafter be built, main-

1 tained, or operated except in conformity with such major renewable ener-  
2 gy facility siting permit and any terms, limitations, or conditions  
3 contained therein, provided that nothing in this subdivision shall  
4 exempt such facility from compliance with federal laws and regulations.

5 § 4. Subdivision 1 of section 141 of the public service law, as added  
6 by section 11 of part O of chapter 58 of the laws of 2024, is amended to  
7 read as follows:

8 1. Except as provided in paragraph (b) of subdivision five of this  
9 section, no person shall commence the preparation of a site for, or  
10 begin the construction of, a major electric transmission facility in the  
11 state without having first obtained a siting permit pursuant to this  
12 article and any permit required by a municipality in which the major  
13 electric transmission facility will be located. Any major electric tran-  
14 smission facility subject to this article with respect to which a siting  
15 permit is issued shall not thereafter be built, maintained, or operated  
16 except in conformity with such siting [~~permit~~] permits and any terms,  
17 limitations, or conditions contained therein, provided that nothing in  
18 this subdivision shall exempt such facility from compliance with federal  
19 laws and regulations.

20 § 5. Subdivision 5 of section 142 of the public service law, as added  
21 by section 11 of part O of chapter 58 of the laws of 2024, is amended to  
22 read as follows:

23 5. Following the expiration of the public comment period set forth in  
24 this section, and following the conclusion of a hearing undertaken  
25 pursuant to subdivision four of this section, ORES shall, in the case of  
26 a public comment period, issue a written summary of public comments and  
27 an assessment of comments received, and in the case of an adjudicatory  
28 hearing, the executive director or any person to whom the executive  
29 director has delegated such authority shall issue a final written hear-  
30 ing report. A final siting permit may only be issued if ORES makes a  
31 finding that the proposed project, together with any applicable uniform  
32 and site-specific standards and conditions, would comply with applicable  
33 laws and regulations. [~~In making a final siting permit determination~~  
34 ~~with respect to a major renewable energy facility, ORES may elect not to~~  
35 ~~apply, in whole or in part, any local law or ordinance that would other-~~  
36 ~~wise be applicable if it makes a finding that, as applied to the~~  
37 ~~proposed facility, it is unreasonably burdensome in view of the CLCPA~~  
38 ~~targets, and the environmental benefits.~~]

39 §6. Subdivision 2 of section 144 of the public service law, as added  
40 by section 11 of part O of chapter 58 of the laws of 2024, is amended to  
41 read as follows:

42 2. Notwithstanding any other provision of law, [~~including without~~  
43 ~~limitation article eight of the environmental conservation law and arti-~~  
44 ~~cle VII of this chapter, no other state agency, department or authority,~~  
45 ~~or~~] any municipality [~~or political subdivision or any agency thereof~~  
46 ~~may, except as expressly authorized under this article or the rules and~~  
47 ~~regulations promulgated under this article,~~] may require any approval,  
48 consent, permit, certificate, contract, agreement, or other condition  
49 for the development, design, construction, operation, or decommissioning  
50 of a major renewable energy facility or a major electric transmission  
51 facility with respect to which an application for a siting permit has  
52 been filed[~~, provided in the case of a municipality, political subdivi-~~  
53 ~~sion or an agency thereof, such entity has received notice of the filing~~  
54 ~~of the application therefor. Notwithstanding the foregoing, the depart-~~  
55 ~~ment of environmental conservation shall be the permitting agency for~~

1 ~~permits issued pursuant to federally delegated or federally approved~~  
2 ~~programs~~].

3 § 7. Subdivisions 2 and 3 of section 146 of the public service law, as  
4 added by section 11 of part 0 of chapter 58 of the laws of 2024, are  
5 amended to read as follows:

6 2. A judicial proceeding shall be brought in the third department of  
7 the appellate division of the supreme court of the state of New York.  
8 Such proceeding shall be initiated by the filing of a petition in such  
9 court within ninety days after the issuance of a final decision by ORES,  
10 or a permitting authority of a municipality, political subdivision or  
11 agency thereof, together with proof of service of a demand on ORES or a  
12 permitting authority, to file with said court a copy of a written tran-  
13 script of the record of the proceeding and a copy of ORES's, or a  
14 permitting authority's, decision and opinion. ORES's, or a permitting  
15 authority's, copy of said transcript, decision and opinion, shall be  
16 available at all reasonable times to all parties for examination without  
17 cost. Upon receipt of such petition and demand ORES, or a permitting  
18 authority, shall forthwith deliver to the court a copy of the record and  
19 a copy of ORES's, or a permitting authority's, decision and opinion.  
20 Thereupon, the court shall have jurisdiction of the proceeding and shall  
21 have the power to grant such relief as it deems just and proper, and to  
22 make and enter an order enforcing, modifying and enforcing as so modi-  
23 fied, remanding for further specific evidence or findings or setting  
24 aside in whole or in part such decision. The appeal shall be heard on  
25 the record, without requirement of reproduction, and upon briefs to the  
26 court. The findings of fact on which such decision is based shall be  
27 conclusive if supported by substantial evidence on the record considered  
28 as a whole and matters of judicial notice set forth in the opinion. The  
29 jurisdiction of the appellate division of the supreme court shall be  
30 exclusive and its judgment and order shall be final, subject to review  
31 by the court of appeals in the same manner and form and with the same  
32 effect as provided for appeals in a special proceeding. All such  
33 proceedings shall be heard and determined by the appellate division of  
34 the supreme court and by the court of appeals as expeditiously as possi-  
35 ble and with lawful precedence over all other matters.

36 3. The grounds for and scope of review of the court shall be limited  
37 to whether the decision and opinion of ORES, or a permitting authority,  
38 are:

39 (a) In conformity with the constitution, laws and regulations of the  
40 state and the United States;

41 (b) Supported by substantial evidence in the record and matters of  
42 judicial notice properly considered and applied in the opinion;

43 (c) Within the statutory jurisdiction or authority of ORES, or a  
44 permitting authority, and the department;

45 (d) Made in accordance with procedures set forth in this section or  
46 established by rule or regulation pursuant to this article;

47 (e) Arbitrary, capricious or an abuse of discretion; or

48 (f) Made pursuant to a process that afforded meaningful involvement of  
49 citizens affected by the facility or project regardless of age, race,  
50 color, national origin and income.

51 § 8. This act shall take effect immediately; provided, however that  
52 the amendments to article 8 of the public service law made by sections  
53 three, four, five, six and seven of this act shall be subject to the  
54 expiration and repeal of such article and shall expire and be deemed  
55 repealed therewith.