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HOUSE BILL NO. 1239

Offered January 17, 2014

A *BILL to amend and reenact §§ 58.1-3660, as it is effective for taxable years beginning on or after January 1, 2011, and 58.1-3661 of the Code of Virginia, relating to real and personal property tax exemption; solar energy equipment, facilities, and devices.*

Patrons—Hugo, Ramadan, Filler-Corn, Keam, Kilgore, Minchew, Plum, Rasoul, Rust, Torian and Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3660, as it is effective for taxable years beginning on or after January 1, 2011, and 58.1-3661 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3660. (Effective for tax years beginning on or after January 1, 2011) Certified pollution control equipment and facilities.

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

"Certified pollution control equipment and facilities" shall mean any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, *solar energy equipment, facilities, or devices that are collecting, generating, transferring, or storing thermal or electric energy*; any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel; and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall not include the land on which such equipment or facilities are located.

"State certifying authority" shall mean the State Water Control Board, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

§ 58.1-3661. Certified recycling equipment, facilities or devices.

A. Certified solar energy equipment facilities or devices and certified recycling equipment, facilities, or devices, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation in the manner provided by subsection D.

B. As used in this section:

"Certified recycling equipment, facilities, or devices" means machinery and equipment which is certified by the Department of ~~Waste Management~~ *Environmental Quality* as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth.

"Certified solar energy equipment, facilities or devices" means any property, including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas, or electricity.

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59 "Local certifying authority" means the local building departments or the Department of Waste
60 Management. The State Board of Housing and Community Development shall promulgate regulations
61 setting forth criteria for certifiable solar energy equipment. The Department of Waste Management
62 *Environmental Quality* shall promulgate regulations establishing criteria for recycling equipment,
63 facilities, or devices.

64 C. Any person residing in a county, city or town which has adopted an ordinance pursuant to
65 subsection A may proceed to have solar energy equipment, facilities or devices certified as exempt,
66 wholly or partially, from taxation by applying to the local building department. If, after examination of
67 such equipment, facility or device, the local building department determines that the unit primarily
68 performs any of the functions set forth in subsection B and conforms to the requirements set by
69 regulations of the Board of Housing and Community Development, such department shall approve and
70 certify such application. The local department shall forthwith transmit to the local assessing officer those
71 applications properly approved and certified by the local building department as meeting all
72 requirements qualifying such equipment, facility or device for exemption from taxation. Any person
73 aggrieved by a decision of the local building department may appeal such decision to the local board of
74 building code appeals, which may affirm or reverse such decision.

75 D. C. Upon receipt of the certificate from the local building department or the Department of Waste
76 Management *Environmental Quality* the local assessing officer shall, if such local ordinance is in effect,
77 proceed to determine the value of such qualifying solar energy equipment, facilities or devices or
78 certified recycling equipment, facilities, or devices. The exemption provided by this section shall be
79 determined by applying the local tax rate to the value of such equipment, facilities or devices and
80 subtracting such amount, wholly or partially, either (i) from the total real property tax due on the real
81 property to which such equipment, facilities, or devices are attached or (ii) if such equipment, facilities,
82 or devices are taxable as machinery and tools under § 58.1-3507, from the total machinery and tools tax
83 due on such equipment, facilities, or devices, at the election of the taxpayer. This exemption shall be
84 effective beginning in the next succeeding tax year, and shall be permitted for a term of not less than
85 five years. In the event the locality assesses real estate pursuant to § 58.1-3292, the exemption shall be
86 first effective when such real estate is first assessed, but not prior to the date of such application for
87 exemption.

88 E. It shall be presumed for purposes of the administration of ordinances pursuant to this section, and
89 for no other purposes, that the value of such qualifying solar energy equipment, facilities and devices is
90 not less than the normal cost of purchasing and installing such equipment, facilities and devices.