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## HOUSE BILL NO. 1239

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on February 3, 2014)

(Patron Prior to Substitute—Delegate Hugo)

*A BILL to amend and reenact §§ 58.1-3660 and 58.1-3661 of the Code of Virginia, relating to certified pollution control equipment and facilities exempt from taxation; solar equipment.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-3660 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, 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 also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. For solarphotovoltaic (electric energy) systems, this exemption applies only to projects equaling 20megawatts or less, as measured in alternating current (AC) generation capacity.* 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 solar energy equipment, facilities, or devices and 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, *excluding any such property that is exempt under § 58.1-3660*, 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

60 petroleum products, natural gas, or electricity collecting, generating, transferring, or storing thermal or  
61 electric energy.

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

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

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

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

94 **2. That the provisions of this act shall be effective for tax years beginning on or after January 1,**  
95 **2015.**