

18103692D

HOUSE BILL NO. 256

Offered January 10, 2018

Prefiled January 2, 2018

A BILL to amend and reenact § 58.1-3660 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to individual income tax credit and property tax exemption for substantial-capacity solar equipment.

Patron—Guzman

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3660 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 58.1-339.13. Substantial-capacity solar equipment tax credit.

A. For taxable years beginning on and after January 1, 2018, a person shall be allowed a credit against the tax imposed under Article 2 (§ 58.1-320 et seq.) for the cost of substantial-capacity solar equipment, as defined in § 58.1-3660, for which the person obtains certification pursuant to subdivision C 2 of § 58.1-3660. The person shall attach a copy of such certification to his tax return on which the credit is claimed. Such credit shall not exceed the least of (i) \$10,000, (ii) 10 percent of the total installed cost of the equipment, or (iii) the taxpayer's tax liability for the taxable year.

B. The Department shall not issue an aggregate amount of tax credits exceeding \$500,000 in a taxable year. It shall approve properly filed applications in the order received. It shall not allow taxpayers to carry forward unused credit to a later taxable year. It shall issue credit only for equipment installed on and after January 1, 2018, but before January 1, 2023.

§ 58.1-3660. Certified pollution control equipment and facilities; substantial-capacity solar equipment.

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 solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or private college as defined in § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization after January 1, 2015, and greater than 20 megawatts, as measured in alternating current (AC) generation capacity, for projects first in service on or after January 1, 2017, (iv) projects equaling 5 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission

59 organization on or after January 1, 2019, and (v) 80 percent of the assessed value of all other projects
60 equaling more than 5 megawatts, as measured in alternating current (AC) generation capacity for which
61 an initial interconnection request form has been filed with an electric utility or a regional transmission
62 organization on or after January 1, 2019. The exemption for solar photovoltaic (electric energy) projects
63 greater than 20 megawatts, as measured in alternating current (AC) generation capacity, shall not apply
64 to projects upon which construction begins after January 1, 2024. Such property shall not include the
65 land on which such equipment or facilities are located.

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

72 "*Substantial-capacity solar equipment*" means a solar photovoltaic system installed at a residence
73 that has a generation capacity of one to 20 kilowatts, certified by the local building department
74 pursuant to subdivision C 2.

75 *B. Certified pollution control equipment and facilities are hereby declared to be a separate class of*
76 *property and shall constitute a classification for local taxation separate from other classifications of real*
77 *or personal property and such property. Certified pollution control equipment and facilities shall be*
78 *exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.*

79 *C. 1. Substantial-capacity solar equipment is hereby declared to be a separate class of property and*
80 *shall constitute a classification for local taxation separate from other classifications of real or personal*
81 *property. Substantial-capacity solar equipment shall be exempt from state and local taxation pursuant to*
82 *Article X, Section 6 (d) of the Constitution of Virginia.*

83 *2. Any person may proceed to have a solar photovoltaic system certified as substantial-capacity solar*
84 *equipment and exempt from taxation by applying to the local building department. If, after examination*
85 *of such system, the local building department determines that the solar photovoltaic system is installed*
86 *at a residence and has a generation capacity of one to 20 kilowatts, such department shall approve and*
87 *certify such application. The local department shall forthwith transmit to the local assessing officer*
88 *those applications properly approved and certified by the local building department as meeting all*
89 *requirements qualifying such system for exemption from taxation. Any person aggrieved by a decision of*
90 *the local building department may appeal such decision to the local board of building code appeals,*
91 *which may affirm or reverse such decision.*

92 *3. Upon receipt of a certificate from the local building department pertaining to substantial-capacity*
93 *solar equipment, the local assessing officer shall proceed to determine the value of such*
94 *substantial-capacity solar equipment. The exemption provided by this subsection shall be determined by*
95 *applying the local tax rate to the value of such equipment and subtracting such amount either (i) from*
96 *the total real property tax due on the real property to which such equipment is attached or (ii) if such*
97 *equipment is taxable as machinery and tools under § 58.1-3507, from the total machinery and tools tax*
98 *due on such equipment, at the election of the taxpayer. This exemption shall be effective beginning in*
99 *the next succeeding tax year, and shall be permitted for all succeeding tax years that the equipment*
100 *continues to exist. In the event the locality assesses real estate pursuant to § 58.1-3292, the exemption*
101 *shall be first effective when such real estate is first assessed, but not prior to the date of such*
102 *application for exemption.*

103 *4. It shall be presumed for purposes of this section that the value of such qualifying solar energy*
104 *equipment, facilities, and devices and substantial-capacity solar equipment is not less than the normal*
105 *cost of purchasing and installing such equipment, facilities, and devices.*