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HOUSE BILL NO. 2165

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to income tax credit; solar energy equipment.*

Patrons—Davis, Hurst and Kory

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Tax credit for solar energy equipment on certain nonresidential real property.

A. For purposes of this section:

"Certain nonresidential real property" means any real nonresidential property in the Commonwealth (i) located in a Virginia Qualified Opportunity Zone as designated by the U.S. Department of the Treasury; (ii) currently or formerly operated as a landfill; (iii) located in a brownfield, as defined in § 10.1-1230; or (iv) that receives its electric distribution service from an entity organized under Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

"Solar energy equipment" means any solar energy equipment owned by the taxpayer and for which the taxpayer is the electric distribution customer, installed on certain nonresidential real property. "Solar energy equipment" includes a photovoltaic system that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distilling, or producing industrial or commercial process heat. "Solar energy equipment" also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

B. For taxable years beginning on or after January 1, 2019, but before January 1, 2024, any taxpayer that has constructed, purchased, or leased solar energy equipment and placed such equipment in service on certain nonresidential real property shall be allowed a nonrefundable credit against the tax imposed under Article 10 (§ 58.1-400 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620) of Chapter 26 in an amount equal to 35 percent of the installed cost of the solar energy equipment. For purposes of determining the amount of the credit under this section, the installed cost shall not include the amount of any rebate received by the taxpayer related to the installation of the solar energy equipment. In no case shall the aggregate amount of credits allowed to each taxpayer exceed \$100,000.

C. To claim the credit established under this section, a taxpayer shall apply to the Department to determine the amount of the credit allowable for solar energy equipment placed in service. The Department shall issue the tax credit by providing a written certification of the allowable amount of the credit. The taxpayer shall attach the certification to the tax return filed with the Department. In no case shall the Department issue more than \$10 million in tax credits under this section during any fiscal year of the Commonwealth. The Department shall develop guidelines for the issuance of tax credits if the aggregate amount of credits applied for in a fiscal year exceed \$10 million.

D. The amount of the credit claimed shall not exceed 50 percent of the total amount of tax imposed upon the taxpayer for the taxable year under Article 10 (§ 58.1-400 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620) of Chapter 26, as applicable. Any credit not useable for the taxable year for which the credit was allowed to be claimed may be carried over for credit against the tax imposed by Article 10, Chapter 25, or Article 2 of Chapter 26, as applicable, in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. The Director of the Department of Mines, Minerals and Energy, in consultation with the Department, shall develop and update as necessary guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

INTRODUCED

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