

H. B. 2741

(By Delegates Manypenny, Doyle, Mahan, Guthrie, Canterbury, Barker, Hartman, Brown and Hatfield)

[Introduced January 21, 2011; referred to the Committee on the Judiciary then Finance.]

FISCAL NOTE

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-3-9a, relating to exempting the construction or addition of active solar energy systems from real and personal property taxation.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-3-9a, to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-9a. Solar energy systems exempt from taxation.

(a) All property, real and personal, resulting from the construction or addition of any active solar energy system, as defined in subsection (b) of this section is exempt from taxation.

(b) (1) "Active solar energy system" means a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) "Active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

1 (3) Active solar energy systems may be used for any of the
2 following:

3 (A) Domestic, recreational, therapeutic, or service water
4 heating;

5 (B) Space conditioning;

6 (C) Production of electricity;

7 (D) Process heat; and

8 (E) Solar mechanical energy.

9 (c) An active solar energy system that uses solar energy in
10 the production of electricity includes storage devices, power
11 conditioning equipment, transfer equipment, and parts related to
12 the functioning of those items. In general, the use of solar energy
13 in the production of electricity involves the transformation of
14 sunlight into electricity through the use of devices such as solar
15 cells or other solar collecting equipment. However, an active solar
16 energy system used in the production of electricity includes only
17 equipment used up to, but not including, the stage of conveyance or
18 use of the electricity. For the purpose of this subsection, the
19 term "parts" includes spare parts that are owned by the owner of,
20 or the maintenance contractor for, an active solar energy system
21 that uses solar energy in the production of electricity and which
22 spare parts were specifically purchased, designed, or fabricated by
23 or for that owner or maintenance contractor for installation in an
24 active solar energy system that uses solar energy in the production
25 of electricity, including those parts in the tax appraisal
26 exclusion created by this section.

1 (d) An active solar energy system that uses solar energy in
2 the production of electricity also includes pipes and ducts that
3 are used exclusively to carry energy derived from solar energy.
4 Pipes and ducts that are used to carry both energy derived from
5 solar energy and from energy derived from other sources are active
6 solar energy system property only to the extent of seventy-five
7 percent of their full cash value.

8 (e) An active solar energy system that uses solar energy in
9 the production of electricity does not include auxiliary equipment,
10 such as furnaces and hot water heaters, that use a source of power
11 other than solar energy to provide usable energy. An active solar
12 energy system that uses solar energy in the production of
13 electricity does include equipment, such as ducts and hot water
14 tanks, that is utilized by both auxiliary equipment and solar
15 energy equipment, that is, dual use equipment. That equipment is
16 active solar energy system property only to the extent of seventy-
17 five percent of its full cash value.

18 (f) (1) Notwithstanding any other provision in this code, for
19 purposes of this section, "the construction or addition of any
20 active solar energy system" includes the construction of an active
21 solar energy system incorporated by the owner-builder in the
22 initial construction of a new building that the owner-builder does
23 not intend to occupy or use. The exclusion from "newly constructed"
24 provided by this subsection applies to the initial purchaser who
25 purchased the new building from the owner-builder, but only if the
26 owner-builder did not receive an exclusion under this section for

1 the same active solar energy system and only if the initial
2 purchaser purchased the new building prior to that building
3 becoming subject to reassessment to the owner-builder. The assessor
4 shall administer this subdivision in the following manner:

5 (A) The initial purchaser of the building shall file a claim
6 with the assessor and provide to the assessor any documents
7 necessary to identify the value attributable to the active solar
8 energy system included in the purchase price of the new building.
9 The claim shall also identify the amount of any rebate for the
10 active solar energy system provided to either the owner-builder or
11 the initial purchaser by the Public Service Commission, an
12 electrical corporation, a local publicly owned electric utility, or
13 any other agency of the State of West Virginia.

14 (B) The assessor shall evaluate the claim and determine the
15 portion of the purchase price that is attributable to the active
16 solar energy system. The assessor shall then reduce the new value
17 established as a result of the change in ownership of the new
18 building by an amount equal to the difference between the following
19 two amounts:

20 (i) That portion of the value of the new building attributable
21 to the active solar energy system; and

22 (ii) The total amount of all rebates, if any, described in
23 subdivision (A) of this subsection that were provided to either the
24 owner-builder or the initial purchaser.

25 (C) The extension of the new construction exclusion to the
26 initial purchaser of a newly constructed new building shall remain

1 in effect only until there is a subsequent change in ownership of
2 the new building.

3 (2) The Tax Commissioner shall prescribe the manner,
4 documentation and form for claiming the new construction exclusion
5 set forth in this subsection.

NOTE: The purpose of this bill is to exempt the construction or addition of active solar energy systems from real and personal property taxation.

This section is new; therefore, it has been completely underscored.