

H. B. 2776

(By Delegates Manypenny, Martin, Ferro and Hartman)
[Introduced January 24, 2011; referred to the
Committee on Energy, Industry and Labor, Economic
Development and Small Business then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-13Z-3 of the Code of West Virginia,
1931, as amended; and to amend said code by adding thereto a
new article, designated §11-13BB-1, §11-13BB-2, §11-13BB-3 and
§11-13BB-4, all relating to creating a tax credit for
residential renewable energy systems; defining terms;
providing amount of the credit; providing limitations and
requiring the Tax Commissioner to promulgate rules for
claiming and applying the tax credit; and changing the
duration of the residential solar energy tax credit.

Be it enacted by the Legislature of West Virginia:

That §11-13Z-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that said code be amended by adding
thereto a new article, designated §11-13BB-1, §11-13BB-2, §11-13BB-
3 and §11-13BB-4, all to read as follows:

ARTICLE 13Z. RESIDENTIAL SOLAR ENERGY TAX CREDIT.

1 **§11-13Z-3. Carryover credit allowed; Tax Commissioner to**
2 **promulgate rules.**

3 If the amount of the credit exceeds the taxpayer's liability
4 for the taxable year, the amount which exceeds the tax liability
5 may be carried over and applied as a credit against the tax
6 liability of the taxpayer pursuant to the provisions of article
7 twenty-one of this chapter to each of the next taxable years unless
8 sooner used.

9 The State Tax Commissioner shall promulgate legislative rules
10 pursuant to the provisions of chapter twenty-nine-a of this code
11 regarding the applicability, method of claiming of the credit,
12 recapture of the credit and documentation necessary to claim the
13 credit allowed by this article. ~~No~~ A taxpayer shall may not take
14 a credit pursuant to this article for a solar energy system
15 installed after ~~July 1, 2013~~ June 30, 2011.

16 **ARTICLE 13BB. RESIDENTIAL RENEWABLE ENERGY SYSTEMS TAX CREDIT.**

17 **§11-13BB-1. Definitions.**

18 As used in this article, the following terms have the meaning
19 ascribed to them in this section:

20 (1) "Active solar system" means a system of equipment capable
21 of collecting and converting incident solar radiation into thermal,
22 mechanical, or electrical energy, and transferring these forms of
23 energy by a separate apparatus to storage or to the point of use;

1 and includes water heating, space heating or cooling, and
2 electrical or mechanical energy generation.

3 (2) "Biomass energy" means any of the following that is used
4 as the primary source of energy to produce fuel or electricity:

5 (A) Material from a plant or tree; or

6 (B) Other organic matter that is available on a renewable
7 basis, including:

8 (i) Slash and brush from forests and woodlands;

9 (ii) Animal waste;

10 (iii) Methane produced at landfills or as a byproduct of the
11 treatment of wastewater residuals;

12 (iv) Aquatic plants; and

13 (v) Agricultural products.

14 "Biomass energy" does not include black liquor, treated woods
15 or biomass from municipal solid waste other than methane produced
16 at landfills or as a byproduct of the treatment of wastewater
17 residuals.

18 (3) "Biomass system" means any system of apparatus and
19 equipment for use in converting material into biomass energy, as
20 defined in subdivision(2) of this subsection, and transporting that
21 energy by separate apparatus to the point of use or storage.

22 (4) "Direct-use geothermal system" means a system of apparatus
23 and equipment enabling the direct use of geothermal energy,
24 generally between 100 and 300 degrees Fahrenheit, that is contained

1 in the earth to meet energy needs, including heating a building, an
2 industrial process and aquaculture.

3 (5) "Geothermal energy" means energy contained in heat that
4 continuously flows outward from the earth that is used as a sole
5 source of energy to produce electricity.

6 (6) "Geothermal heat-pump system" means a system of apparatus
7 and equipment enabling the use of thermal properties contained in
8 the earth at temperatures well below 100 degrees Fahrenheit to help
9 meet heating and cooling needs of a structure.

10 (7) "Hydroenergy system" means a system of apparatus and
11 equipment capable of intercepting and converting kinetic water
12 energy into electrical or mechanical energy and transferring this
13 form of energy by separate apparatus to the point of use or storage.

14 (8) "Passive solar system" means a direct thermal system that
15 utilizes the structure of a building and its operable components to
16 provide for collection, storage, and distribution of heating or
17 cooling during the appropriate times of the year by utilizing the
18 climate resources available at the site. The term includes those
19 portions and components of a building that are expressly designed
20 and required for the collection, storage, and distribution of solar
21 energy.

22 (9) "Renewable energy resource" includes solar energy, biomass
23 energy, geothermal energy, hydroenergy and wind energy.

24 (10) "Residential renewable energy system" means any active

1 solar system, passive solar system, biomass system, direct-use
2 geothermal system, geothermal heat-pump system, wind system or
3 hydroenergy system used to supply energy to or for any residential
4 unit.

5 (11) "Wind system" means a system of apparatus and equipment
6 capable of intercepting and converting wind energy into mechanical
7 or electrical energy and transferring these forms of energy by a
8 separate apparatus to the point of use or storage.

9 **§11-13BB-2. Amount of credit.**

10 Any taxpayer who installs or causes to be installed a
11 residential renewable energy system on property located in this
12 state and owned by the taxpayer and used as a residence after July
13 1, 2011, is allowed a credit against the taxes imposed in article
14 twenty-one of this chapter in an amount equal to twenty-five percent
15 of the cost to purchase and install the system up to a maximum
16 amount of \$3,000.

17 **§11-13BB-3. Restrictions.**

18 In order to receive the credit for a residential renewable
19 energy system on residential property, the system must use a
20 renewable energy resource to:

21 (1) Generate electricity;

22 (2) Heat or cool a structure; or

23 (3) Provide hot water for use in the structure or to provide
24 solar process heat. The system used to provide hot water must

1 derive at least fifty percent of its energy to heat or cool from a
2 renewable energy resource. This subsection does not apply to a
3 swimming pool, hot tub or any other energy storage medium that has
4 a function other than storage.

5 **§11-13BB-4. Credit to be apportioned over five-year period;**
6 **carryover credit allowed; Tax Commissioner to**
7 **promulgate rules.**

8 (a) The credit against tax provided in this article may be
9 taken by a taxpayer claiming the credit only in five equal
10 increments over a five-consecutive tax-year period, so that in any
11 tax year in which a taxpayer is entitled to the credit, only one
12 fifth of the total credit allowed for a residential renewable energy
13 system under section two may be taken.

14 (b) The State Tax Commissioner shall promulgate legislative
15 rules pursuant to the provisions of chapter twenty-nine-a of this
16 code regarding the applicability, method of claiming the credit,
17 recapture of the credit and documentation necessary to claim the
18 credit allowed by this article.

19 (c) A taxpayer may not take a credit pursuant to this article
20 for a residential renewable energy system installed after June 30,
21 2015.

NOTE: The purpose of this bill is to create a tax credit for residential renewable energy systems. This bill also changes the

duration of the residential solar energy tax credit, as the credit created by this bill applies to several types of residential renewable energy systems, including solar systems.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§11-13BB is a new article; therefore, it has been completely underscored.