

H. B. 2430

(By Delegates Manypenny, Guthrie, Canterbury
and Hartman)

[Introduced February 13, 2013; 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; defining terms; providing a partial exclusion for certain equipment; and determining who may claim the exemption.

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.

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

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

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

9 (A) Domestic, recreational, therapeutic or service water
10 heating;

11 (B) Space conditioning;

12 (C) Production of electricity;

13 (D) Process heat; or

14 (E) Solar mechanical energy.

15 (c) An active solar energy system that uses solar energy in
16 the production of electricity includes storage devices, power
17 conditioning equipment, transfer equipment and parts related to the
18 functioning of those items. In general, the use of solar energy in
19 the production of electricity involves the transformation of
20 sunlight into electricity through the use of devices such as solar
21 cells or other solar collecting equipment. However, an active solar
22 energy system used in the production of electricity includes only
23 that equipment used up to, but not including, the stage of
24 conveyance or use of the electricity. For the purpose of this

1 subsection, the term "parts" includes spare parts that are owned by
2 the owner of, or the maintenance contractor for, an active solar
3 energy system that uses solar energy in the production of
4 electricity and that were specifically purchased, designed, or
5 fabricated by or for that owner or maintenance contractor for
6 installation in an active solar energy system that uses solar
7 energy in the production of electricity, including those parts in
8 the tax appraisal exclusion created by this section.

9 (d) An active solar energy system that uses solar energy in
10 the production of electricity also includes pipes and ducts that
11 are used exclusively to carry energy derived from solar energy.
12 Pipes and ducts that are used to carry both energy derived from
13 solar energy and energy derived from other sources are active solar
14 energy system property only to the extent of seventy-five percent
15 of their full cash value.

16 (e) An active solar energy system that uses solar energy in
17 the production of electricity does not include auxiliary equipment,
18 such as furnaces and hot water heaters, that use a source of power
19 other than solar energy to provide usable energy. An active solar
20 energy system that uses solar energy in the production of
21 electricity does include equipment, such as ducts and hot water
22 tanks, that is utilized by both auxiliary equipment and solar
23 energy equipment, i.e., dual use equipment. That equipment is
24 active solar energy system property only to the extent of

1 seventy-five percent of its full cash value.

2 (f) (1) Notwithstanding any other provision in this code, for
3 purposes of this section, "the construction or addition of any
4 active solar energy system" includes the construction of an active
5 solar energy system incorporated by the owner-builder in the
6 initial construction of a new building that the owner-builder does
7 not intend to occupy or use. The exclusion from "newly constructed"
8 provided by this subsection applies to the initial purchaser who
9 purchased the new building from the owner-builder, but only if the
10 owner-builder did not receive an exclusion under this section for
11 the same active solar energy system and only if the initial
12 purchaser purchased the new building prior to that building
13 becoming subject to reassessment to the owner-builder. The assessor
14 shall administer this subdivision in the following manner:

15 (A) The initial purchaser of the building shall file a claim
16 with the assessor and provide to the assessor any documents
17 necessary to identify the value attributable to the active solar
18 energy system included in the purchase price of the new building.
19 The claim shall also identify the amount of any rebate for the
20 active solar energy system provided to either the owner-builder or
21 the initial purchaser by the Public Service Commission, an
22 electrical corporation, a local publicly owned electric utility or
23 any other agency of the State of West Virginia.

24 (B) The assessor shall evaluate the claim and determine the

1 portion of the purchase price that is attributable to the active
2 solar energy system. The assessor shall then reduce the new value
3 established as a result of the change in ownership of the new
4 building by an amount equal to the difference between the following
5 two amounts:

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

8 (ii) The total amount of all rebates, if any, described in
9 paragraph (A), subdivision (1) of this subsection that were
10 provided to either the owner-builder or the initial purchaser.

11 (C) The extension of the new construction exclusion to the
12 initial purchaser of a newly constructed new building shall remain
13 in effect only until there is a subsequent change in ownership of
14 the new building.

15 (2) The Tax Commissioner shall prescribe the manner,
16 documentation and form for claiming the new construction exclusion
17 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. The bill defines terms. The bill provides a partial exclusion for certain equipment. The bill determines who may claim the exemption.

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