

ASSEMBLY, No. 3338

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

SYNOPSIS

Provides corporation business tax and gross income tax credits for certain solar energy system expenditures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2021)

1 AN ACT providing tax credits for certain solar energy system
2 expenditures, and supplementing P.L.1945, c.162 (C.54:10A-1 et
3 seq.) and Title 54A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. (1) A taxpayer shall be allowed a credit against the tax
9 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in
10 an amount equal to 35 percent of the taxpayer's qualified solar
11 energy system expenditures, provided that the expenditures are
12 certified by the commissioner pursuant to this section.

13 (2) The amount of the tax credit allowed to a taxpayer annually
14 pursuant to this section shall not exceed:

15 (a) \$5,000 per taxpayer for residential property;

16 (b) \$350 per residential unit per taxpayer for apartment
17 buildings; and

18 (c) \$500,000 per taxpayer for commercial property and
19 industrial property.

20 b. (1) To qualify for the tax credit allowed pursuant to this
21 section, the taxpayer shall file an application for a certification from
22 the commissioner that expenditures made by the taxpayer are
23 qualified solar energy system expenditures. The commissioner may
24 require the submission of any additional information the
25 commissioner deems necessary to make a certification. The
26 application and certification shall specify the amount paid for the
27 purchase and installation of the solar energy system equipment, the
28 terms of the leasing agreement under which the taxpayer leases the
29 equipment, or the terms of a power purchase agreement, as
30 applicable. The application and certification shall also include the
31 date of installation, a description of the solar energy system
32 equipment, and how it is used by the taxpayer. The certification
33 shall specify the amount of credit available to the taxpayer.

34 (2) The commissioner shall have 90 days from the date of
35 receipt of a complete application to make a determination as to the
36 issuance of a certification.

37 (3) Upon certification, the commissioner shall submit a copy
38 thereof to the taxpayer and the director. In filing a tax return that
39 includes a claim for the credit allowed pursuant to this section, the
40 taxpayer shall include a copy of the certification.

41 c. The first privilege period in which a taxpayer may use a
42 credit allowed under this section is the privilege period for which
43 the taxpayer's application made and filed for a certification from
44 the commissioner is granted.

45 d. The amount of any unused credit may be carried forward, if
46 necessary, for use in each of the seven privilege periods following
47 the privilege period for which the credit is allowed.

1 e. The order of priority of the application of the credit allowed
2 pursuant to this section and any other credits allowed by law shall
3 be as prescribed by the director. The amount of the credit applied
4 under this section against the tax imposed pursuant to section 5 of
5 P.L.1945, c.162 for a privilege period, together with any other
6 credits allowed against the tax imposed pursuant to section 5 of
7 P.L.1945, c.162, shall not exceed 50 percent of the tax liability
8 otherwise due and shall not reduce the tax liability to an amount
9 less than the statutory minimum provided in subsection (e) of
10 section 5 of P.L.1945, c.162.

11 f. A credit shall not be allowed pursuant to this section for
12 qualified solar energy system expenditures which are included in
13 the calculation of any other credit allowed against the tax imposed
14 pursuant to section 5 of P.L.1945, c.162.

15 g. The commissioner shall establish a tax credit pre-
16 certification process through which a taxpayer can determine if
17 expected expenditures would qualify for a credit allowed pursuant
18 to this section. The tax credit pre-certification process established
19 by the commissioner may require the submission of written
20 information describing the solar energy system equipment and how
21 it is used by the taxpayer, the amount paid for the purchase and
22 installation of the equipment, the terms of the leasing agreement
23 under which the taxpayer leases the equipment, or the terms of a
24 power purchase agreement, as applicable. The commissioner may
25 also require the submission of any other information deemed
26 relevant by the commissioner to make a determination. Obtaining
27 pre-certification from the commissioner shall not be required to
28 qualify for a credit allowed pursuant to this section.

29 h. The commissioner, in consultation with the director, shall
30 adopt rules and regulations in accordance with the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing
32 technical specifications and certification requirements for the
33 designation of qualified solar energy system expenditures pursuant
34 to this section. Such rules and regulations shall include, but need
35 not be limited to, examples of qualified solar energy system
36 expenditures and the procedures and forms to apply for a
37 certification.

38 i. The value of credits approved by the director and the
39 commissioner pursuant to this section and section 2 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill) shall not
41 exceed a cumulative total of \$25,000,000 in any fiscal year to apply
42 against the tax imposed pursuant to section 5 of P.L.1945, c.162
43 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey
44 Gross Income Tax Act," N.J.S.54A:1-1 et seq.

45 If the cumulative total amount of credits allowed to taxpayers for
46 privilege periods or taxable years commencing during a single fiscal
47 year under this section and section 2 of P.L. , c. (C.)
48 (pending before the Legislature as this bill) exceeds the amount of

1 credits available in that year, then taxpayers who have first applied
2 for and have not been allowed a credit amount for that reason shall
3 be allowed, in the order in which they have submitted an
4 application, the amount of the tax credit or certificate on the first
5 day of the next succeeding
6 fiscal year in which tax credits under this section and section 2 of
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 are not in excess of the amount of credits available.

9 j. As used in this section:

10 “Apartment building” means “Class 4C: Apartments” as that
11 term is defined by N.J.A.C.18:12-2.2.

12 “Commercial property” means “Class 4A: Commercial
13 property,” as that term is defined by N.J.A.C.18:12-2.2.

14 “Commissioner” means the Commissioner of Environmental
15 Protection.

16 “Industrial property” means “Class 4B: Industrial property,” as
17 that term is defined by N.J.A.C.18:12-2.2.

18 “Qualified solar energy system expenditures” means
19 expenditures for:

20 (1) The purchase of solar energy system equipment which is
21 installed in connection with:

22 (a) residential property that is located in the State and is used as
23 the taxpayer’s principal residence at the time the solar energy
24 system equipment is placed into service; or

25 (b) commercial property, industrial property, or apartment
26 buildings that are located in the State, provided that the solar energy
27 system equipment is used or consumed in the taxpayer’s business,
28 trade, or occupation; or

29 (2) The lease of solar energy system equipment under a written
30 agreement that spans at least 10 years and such equipment is owned
31 by a person other than the taxpayer and is installed in connection
32 with:

33 (a) residential property that is located in the State and is used as
34 the taxpayer’s principal place of residence at the time the solar
35 energy system equipment is placed into service; or

36 (b) commercial property, industrial property, or apartment
37 buildings that are located in the State, provided that the solar energy
38 system equipment is used or consumed in the taxpayer’s business,
39 trade, or occupation; or

40 (3) The purchase of power under a written agreement that spans
41 at least 10 years whereunder the power purchased is generated by
42 solar energy system equipment owned by a person other than the
43 taxpayer which is installed in connection with:

44 (a) residential property that is located in the State and is used as
45 the taxpayer’s principal place of residence at the time the solar
46 energy system equipment is placed into service; or

47 (b) commercial property, industrial property, or apartment
48 buildings that are located in the State, and the energy generated by

1 the solar energy system equipment is used or consumed in the
2 taxpayer's business, trade, or occupation; or

3 (4) Materials, labor costs properly allocable to on-site
4 preparation, assembly, and original installation, architectural and
5 engineering services, and designs and plans directly related to the
6 construction or installation of the solar energy system equipment.

7 "Residential property" means "Class 2: Residential property," as
8 that term is defined by N.J.A.C.18:12-2.2.

9 "Solar energy system equipment" means an arrangement or
10 combination of components utilizing solar radiation to produce
11 energy designed to provide heating, cooling, hot water, or
12 electricity as determined by the commissioner, but which shall not
13 include materials connected to solar energy system equipment that
14 are a component of a non-solar energy system.

15 "Used or consumed" means the onsite use of energy generated
16 by solar energy system equipment or the selling of excess energy
17 not used onsite by the operator of the system, whether or not the
18 operator is the taxpayer.

19
20 2. a. (1) A taxpayer shall be allowed a credit against the tax
21 otherwise due for the taxable year under the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35
23 percent of the taxpayer's qualified solar energy system
24 expenditures, provided that the expenditures are certified by the
25 commissioner of pursuant to this section.

26 (2) The amount of the tax credit allowed to a taxpayer annually
27 pursuant to this section shall not exceed:

28 (a) \$5,000 per taxpayer for residential property;

29 (b) \$350 per residential unit per taxpayer for apartment
30 buildings; and

31 (c) \$500,000 per taxpayer for commercial property or industrial
32 property.

33 b. (1) To qualify for the tax credit allowed pursuant to this
34 section, the taxpayer shall file an application for a certification from
35 the commissioner that expenditures made by the taxpayer are
36 qualified solar energy system expenditures. The commissioner may
37 require the submission of any additional information the
38 commissioner deems necessary to make a certification. The
39 application and certification shall specify the amount paid for the
40 purchase and installation of the solar energy system equipment, the
41 terms of the leasing agreement under which the taxpayer leases the
42 equipment, or the terms of a power purchase agreement, as
43 applicable. The application and certification shall also include the
44 date of installation, a description of the solar energy system
45 equipment, and how it is used by the taxpayer. The certification
46 shall specify the amount of credit available to the taxpayer.

1 (2) The commissioner shall have 90 days from the date of
2 receipt of a complete application to make a determination as to the
3 issuance of a certification.

4 (3) Upon certification, the commissioner shall submit a copy
5 thereof to the taxpayer and the director. In filing a tax return that
6 includes a claim for the credit allowed pursuant to this section, the
7 taxpayer shall include a copy of the certification.

8 c. The first taxable year for which a taxpayer may use a credit
9 allowed under this section is the taxable year in which the
10 taxpayer's application made and filed for a certification from the
11 commissioner is granted.

12 d. The amount of any unused credit may be carried forward, if
13 necessary, for use in each of the seven taxable years following the
14 taxable year for which the credit is allowed.

15 e. The order of priority of the application of the credit allowed
16 pursuant to this section and any other credits allowed by law shall
17 be as prescribed by the director. The amount of the credit applied
18 under this section against the tax imposed pursuant to N.J.S.54A:1-
19 1 et seq. for a taxable year, together with any other credits allowed
20 against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not
21 exceed 50 percent of the taxpayer's liability for tax for the taxable
22 year.

23 f. A credit shall not be allowed pursuant to this section for
24 qualified solar energy system expenditures which are included in
25 the calculation of any other credit allowed against the tax imposed
26 pursuant to N.J.S.54A:1-1 et seq.

27 g. The commissioner shall establish a tax credit pre-
28 certification process through which a taxpayer can determine if
29 expected expenditures would qualify for a credit allowed pursuant
30 to this section. The tax credit pre-certification process established
31 by the commissioner may require the submission of written
32 information describing the solar energy system equipment and how
33 it is intended to be used by the taxpayer, the amount paid for the
34 purchase and installation of the equipment, the terms of the leasing
35 agreement under which the taxpayer leases the equipment, or the
36 terms of a power purchase agreement, as applicable. The
37 commissioner may also require the submission of any other
38 information deemed relevant by the commissioner to make a
39 determination. Obtaining pre-certification from the commissioner
40 shall not be required to qualify for a credit allowed pursuant to this
41 section.

42 h. A business entity that is classified as a partnership for
43 federal income tax purposes shall not be allowed the credit directly
44 under N.J.S.54A:1-1 et seq., but the amount of credit of the
45 taxpayer in respect of a distributive share of partnership income
46 shall be determined by allocating to the taxpayer that proportion of
47 the credit acquired by the partnership that is equal to the taxpayer's
48 share, whether or not distributed, of the total distributive income or

1 gain of the partnership for its taxable year ending within or with the
2 taxpayer's taxable year.

3 A taxpayer that is a New Jersey S corporation shall not be
4 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
5 amount of credit of a taxpayer in respect of a pro rata share of S
6 corporation income shall be determined by allocating to the
7 taxpayer that proportion of the credit acquired by the New Jersey S
8 corporation that is equal to the taxpayer's share, whether or not
9 distributed, of the total pro rata share of S corporation income of the
10 New Jersey S corporation for its taxable year ending within or with
11 the taxpayer's taxable year.

12 i. The commissioner, in consultation with the director, shall
13 adopt rules and regulations in accordance with the "Administrative
14 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing
15 technical specifications and certification requirements for the
16 designation of qualified solar energy system expenditures pursuant
17 to this section. Such rules and regulations shall include, but need
18 not be limited to, examples of qualified solar energy system
19 expenditures and the procedures and forms to apply for a
20 certification.

21 j. The value of credits approved by the director and the
22 commissioner pursuant to this section and section 1 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) shall not
24 exceed a cumulative total of \$25,000,000 in any fiscal year to apply
25 against the tax imposed pursuant to section 5 of P.L.1945, c.162
26 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey
27 Gross Income Tax Act," N.J.S.54A:1-1 et seq.

28 If the cumulative total amount of credits allowed to taxpayers for
29 privilege periods or taxable years commencing during a single fiscal
30 year under this section and section 1 of P.L. , c. (C.)
31 (pending before the Legislature as this bill) exceeds the amount of
32 credits available in that year, then taxpayers who have first applied
33 for and have not been allowed a credit amount for that reason shall
34 be allowed, in the order in which they have submitted an
35 application, the amount of the tax credit or certificate on the first
36 day of the next succeeding fiscal year in which tax credits under
37 this section and section 1 of P.L. , c. (C.) (pending before
38 the Legislature as this bill)) are not in excess of the amount of
39 credits available.

40 k. As used in this section,

41 "Apartment building" means "Class 4C: Apartments," as that
42 term is defined by N.J.A.C.18:12-2.2.

43 "Commercial property" means "Class 4A: Commercial
44 property," as that term is defined by N.J.A.C.18:12-2.2.

45 "Industrial property" means "Class 4B: Industrial property," as
46 that term is defined by N.J.A.C.18:12-2.2.

47 "Commissioner" means the Commissioner of Environmental
48 Protection.

1 “Qualified solar energy system expenditures” means
2 expenditures for:

3 (1) The purchase of solar energy system equipment which is
4 installed in connection with:

5 (a) residential property that is located in the State and is used as
6 the taxpayer’s principal residence at the time the solar energy
7 system equipment is placed into service; or

8 (b) commercial property, industrial property, or apartment
9 buildings that are located in the State, provided that the solar energy
10 system equipment is used or consumed in the taxpayer’s business,
11 trade, or occupation; or

12 (2) The lease of solar energy system equipment under a written
13 agreement that spans at least 10 years and such equipment is owned
14 by a person other than the taxpayer and is installed in connection
15 with:

16 (a) residential property that is located in the State and is used as
17 the taxpayer’s principal place of residence at the time the solar
18 energy system equipment is placed into service; or

19 (b) commercial property, industrial property, or apartment
20 buildings that are located in the State, provided that the solar energy
21 system equipment is used or consumed in the taxpayer’s business,
22 trade, or occupation; or

23 (3) The purchase of power under a written agreement that spans
24 at least 10 years whereunder the power purchased is generated by
25 solar energy system equipment owned by a person other than the
26 taxpayer which is installed in connection with:

27 (a) residential property that is located in the State and is used as
28 the taxpayer’s principal place of residence at the time the solar
29 energy system equipment is placed into service; or

30 (b) commercial property, industrial property, or apartment
31 buildings that are located in the State, and the energy generated by
32 the solar energy system equipment is used or consumed in the
33 taxpayer’s business, trade, or occupation; or

34 (4) Materials, labor costs properly allocable to on-site
35 preparation, assembly, and original installation, architectural and
36 engineering services, and designs and plans directly related to the
37 construction or installation of the solar energy system equipment.

38 “Residential property” means “Class 2: Residential property,” as
39 that term is defined by N.J.A.C.18:12-2.2.

40 “Solar energy system equipment” means an arrangement or
41 combination of components utilizing solar radiation to produce
42 energy designed to provide heating, cooling, hot water, or
43 electricity as determined by the commissioner, but which shall not
44 include materials connected to solar energy system equipment that
45 are a component of a non-solar energy system.

46 “Used or consumed” means the onsite use of energy generated
47 by solar energy system equipment or the selling of excess energy

1 not used onsite by the operator of the system, whether or not the
2 operator is the taxpayer.

3

4 3. This act shall take effect immediately and apply to the five
5 privilege periods and taxable years following enactment.

6

7

8

STATEMENT

9

10 This bill provides a tax credit under the corporation business tax
11 and the gross income tax for certain solar energy system
12 expenditures.

13 Under the bill, a taxpayer is eligible to claim a credit in an
14 amount equal to 35 percent of qualified solar energy system
15 expenditures up to \$5,000 for residential properties, \$350 per unit
16 for apartment buildings, and \$500,000 for commercial and
17 industrial properties. For purposes of the bill, qualified solar
18 energy system expenditures include the cost of components utilizing
19 solar radiation to produce energy, and expenditures for materials,
20 labor costs for on-site preparation, assembly, and original
21 installation, in addition to architectural and engineering services
22 and designs or plans directly related to the construction or
23 installation of the solar energy system equipment. The bill also
24 specifies that a taxpayer may still receive the tax credit if the
25 taxpayer leases the solar panels on their property from another
26 entity, or if the taxpayer purchases energy produced by the solar
27 panels on their property from another entity that owns the panels.

28 The bill provides that a taxpayer must first qualify for a credit to
29 be eligible to claim the credit. To qualify, a taxpayer must file an
30 application with the Commissioner of Environmental Protection
31 who is responsible for issuing a certification confirming that the
32 expenditures meet the requirements of qualified solar energy system
33 expenditures.

34 The bill provides that the commissioner has 90 days after receipt
35 of a complete application to make a determination as to the issuance
36 of a certification. If the application is certified, the commissioner
37 must submit the certification to the Director of the Division of
38 Taxation in the Department of the Treasury and to the taxpayer.
39 The taxpayer then uses that certification when filing a tax return
40 that includes a claim for the credit.

41 The bill provides that the first privilege period or taxable year in
42 which a taxpayer may use the credit is the privilege period or
43 taxable year in which the certification is granted. The bill also
44 provides that the amount of any unused credit may be carried
45 forward, if necessary, to each of the seven privilege periods or
46 taxable years following the period or year in which the credit is first
47 allowed, but stipulates that a credit is not allowed if the qualified

1 solar energy system expenditures are used to secure another credit
2 in the same or prior period or year by the same or another taxpayer.

3 The bill requires the commissioner to establish a pre-certification
4 process through which a taxpayer can determine if expected solar
5 energy system expenditures are eligible for a credit, and to develop
6 and adopt regulations, in consultation with the Director of the
7 Division of Taxation, establishing technical specifications and
8 certification requirements for the qualification of solar energy
9 system expenditures. The bill specifies that pre-certification
10 established by the commissioner may require submission of certain
11 written information describing the equipment to be purchased and
12 how it is intended to be used or consumed, but that obtaining pre-
13 certification is not required to qualify for a credit.

14 The maximum cumulative amount of credits permitted is limited
15 to \$25 million Statewide per year, and the program would expire
16 after five years.

17 The purpose of this bill is to encourage taxpayers to install solar
18 panels on their homes and businesses by providing financial
19 incentives to do so.