

CHAPTER 90

AN ACT exempting certain renewable energy systems from real property taxation and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

C.54:4-3.113a Definitions relative to certain renewable energy systems.

1. As used in this act:

“Board of appeals” means the construction board of appeals established under section 9 of P.L.1975, c.217 (C.52:27D-127), having jurisdiction in the municipality in which the property is located.

“Commissioner” means the Commissioner of Community Affairs.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Local enforcing agency” means the enforcing agency in any municipality provided for under the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) and rules and regulations adopted pursuant thereto.

“Renewable energy” means: (1) electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, methane gas from landfills, a resource recovery facility, a hydropower facility or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner, and provided further that the Commissioner of Environmental Protection has determined that the resource recovery facility, hydropower facility or biomass facility, as appropriate, meets the highest environmental standards and minimizes any impacts to the environment and local communities; and (2) energy produced from solar thermal or geothermal technologies.

“Renewable energy system” means any equipment that is part of, or added to, a residential, commercial, industrial, or mixed use building as an accessory use, and that produces renewable energy onsite to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building.

C.54:4-3.113b Property certified as renewable energy system exempt from taxation.

2. Property that has been certified by a local enforcing agency as a renewable energy system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes. The owner of real property which is equipped with a certified renewable energy system may have exempted annually from the assessed valuation of the real property a sum equal to the assessed valuation of the real property with the renewable energy system included, minus the assessed valuation of the real property without the renewable energy system included.

C.54:4-3.113c Requirements for certification by local enforcing agency.

3. No certification shall be made by the local enforcing agency as provided in this act, except upon written application therefor, which application shall be made under oath on a form prescribed by the director, and provided for the use of claimants by the local enforcing agency. The local enforcing agency may at any time inquire into the right of a claimant to the exemption, and for that purpose the local enforcing agency may require the filing of a new application or the submission of such proof as the local enforcing agency shall deem necessary to determine the right of the claimant to the continuance of the exemption. The local enforcing agency shall have the right to make an inspection of the premises which are the subject of the claim for exemption under this act.

C.54:4-3.113d Certification by local enforcing agency.

4. The local enforcing agency, when requested for a certification pursuant to this act, shall certify a system as being a renewable energy system whenever the local enforcing agency finds that the system installed was designed primarily as a renewable energy system in accordance with rules and regulations adopted by the commissioner pursuant to subsection b. of section 7 of this act. The certificate shall contain information identifying the renewable energy system and the cost thereof and shall be in such form and detail as the director shall prescribe. The certificate shall be provided to the applicant therefor, with a copy retained on file by the local enforcing agency, and a copy of the certificate shall be sent to the assessor of the taxing district in which the property containing the renewable energy system is located and has been installed. The exemption from taxation for the renewable energy system shall become effective for the tax year following the year in which certification has been granted and thereafter during its use primarily for such purposes.

C.54:4-3.113e Revocation of certificate.

5. The local enforcing agency, after giving notice to the holder of a renewable energy system certificate, may revoke a certificate whenever any of the following appears or occurs:

- a. the certificate was obtained by fraud or misrepresentation;
- b. the claimant for tax exemption has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a renewable energy system;
- c. the structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of providing renewable energy to provide all or a portion of the electrical, heating, cooling, or general energy needs of the structure and is being used for a different primary purpose; or
- d. the claimant for the tax exemption has so departed from the equipment, design and construction previously certified by the local enforcing agency that, in the opinion of the local enforcing agency, the renewable energy system is not suitable and reasonably adequate for the purpose of using renewable energy to provide all or a portion of the electrical, heating, cooling, or general energy needs of the structure.

C.54:4-3.113f Review for aggrieved persons.

6. a. Any person aggrieved by any action of the local enforcing agency may seek review before the board of appeals.

b. Any person aggrieved by any action of the assessor or of the county tax board may seek a review of such action in the State Tax Court by filing a complaint in the Tax Court, pursuant to rules of court.

C.54:4-3.113g Rules, regulations.

7. a. The director, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt any rules and regulations necessary for the proper certification of any tax exemption pursuant to this act, the form of any certificate to be issued, and any other matter related to the exemption.

b. The commissioner, in consultation with the Board of Public Utilities, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), standards with respect to the technical sufficiency of renewable energy systems for the purposes of qualification for exemption.

8. This act shall take effect immediately.

Approved October 1, 2008.