

**ASSEMBLY, No. 1262**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**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**

Introduced Pending Technical Review by Legislative Counsel.



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. , c.  
40 (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.