Code of Virginia
Title 58.1. Taxation
Subtitle III. Local Taxes
Chapter 36. Tax Exempt Property
Article 5. Other Exempt Property

# § 58.1-3661. Certified solar energy equipment, facilities, or devices and certified recycling equipment, facilities, or devices

A. Any solar facility installed pursuant to subsections A or B of § 15.2-2288.7 with a nameplate rated electrical generating capacity measured in direct current kilowatts of not more than 25 kilowatts is hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property. Such facilities shall be wholly exempt from state and local taxation pursuant to Article X, § 6 (d) of the Constitution of Virginia.

B. Certified solar energy equipment, facilities, or devices and certified recycling equipment, facilities, or devices, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation in the manner provided by subsection E.

C. As used in this section:

"Certified recycling equipment, facilities, or devices" means machinery and equipment which is certified by the Department of Environmental Quality as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth.

"Certified solar energy equipment, facilities, or devices" means any property, including real or personal property, equipment, facilities, or devices, excluding any portion of such property that is exempt under § 58.1-3660, certified by the local certifying authority to be designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.

"Local certifying authority" means the local building departments or the Department of Environmental Quality. The State Board of Housing and Community Development shall promulgate regulations setting forth criteria for certifiable solar energy equipment. The Department of Environmental Quality shall promulgate regulations establishing criteria for recycling equipment, facilities, or devices.

D. Any person residing in a county, city or town which has adopted an ordinance pursuant to subsection B may proceed to have solar energy equipment, facilities, or devices certified as exempt, wholly or partially, from taxation by applying to the local building department. If, after examination of such equipment, facility, or device, the local building department determines that the unit primarily performs any of the functions set forth in subsection C and conforms to the requirements set by regulations of the Board of Housing and Community Development, such department shall approve and certify such application. The local department shall forthwith

transmit to the local assessing officer those applications properly approved and certified by the local building department as meeting all requirements qualifying such equipment, facility, or device for exemption from taxation. Any person aggrieved by a decision of the local building department may appeal such decision to the local board of building code appeals, which may affirm or reverse such decision.

E. Upon receipt of the certificate from the local building department or the Department of Environmental Quality, the local assessing officer shall, if such local ordinance is in effect, proceed to determine the value of such qualifying solar energy equipment, facilities, or devices or certified recycling equipment, facilities, or devices. The exemption provided by this section shall be determined by applying the local tax rate to the value of such equipment, facilities, or devices and subtracting such amount, wholly or partially, either (i) from the total real property tax due on the real property to which such equipment, facilities, or devices are attached or (ii) if such equipment, facilities, or devices are taxable as machinery and tools under § 58.1-3507, from the total machinery and tools tax due on such equipment, facilities, or devices, at the election of the taxpayer. This exemption shall be effective beginning in the next succeeding tax year and shall be permitted for a term of not less than five years; however, if the taxpayer installs equipment, facilities, or devices and obtains certification for such equipment, facilities, or devices within one year of installation, the locality may provide by ordinance that the exemption shall be effective as of the date of installation, and if the taxpayer has paid any taxes on such equipment, facilities, or devices, the locality shall reimburse the taxpayer for any such taxes paid. In the event the locality assesses real estate pursuant to § 58.1-3292, the exemption shall be first effective when such real estate is first assessed, but not prior to the date of such application for exemption.

F. It shall be presumed for purposes of the administration of ordinances pursuant to this section, and for no other purposes, that the value of such qualifying solar energy equipment, facilities, and devices is not less than the normal cost of purchasing and installing such equipment, facilities, and devices.

Code 1950, § 58-16.4; 1977, c. 561; 1984, c. 675; 1988, c. 253; 1990, c. 690; 1998, c. 606;2014, cc. 259, 737;2016, c. 346;2020, c. 633;2022, c. 496.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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