

FIRST REGULAR SESSION

HOUSE BILL NO. 1297

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CUPPS.

2189H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to solar energy property tax credits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.1010, to read as follows:

135.1010. 1. As used in this section, the following terms mean:

(1) "Qualified taxpayer", any individual or entity subject to the state income tax imposed under chapter 143, 147, 148, or 153, excluding the withholding tax imposed under sections 143.191 to 143.265;

(2) "Solar energy property", any nonresidential solar energy equipment with a nameplate capacity of at least one thousand nine hundred kilowatts (1,900 kw AC) that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term "solar energy property" also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy;

(3) "Tax credit", a credit against the tax otherwise due under chapter 143, 147, 148, or 153, excluding withholding tax imposed under sections 143.191 to 143.265.

2. For all tax years beginning on or after January 1, 2024, a qualified taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to twenty-five percent of the cost, including the cost of installation, of

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 solar energy property if the qualified taxpayer constructs, purchases, or leases solar
19 energy property that is:

20 (1) Located in the state of Missouri;

21 (2) Located on:

22 (a) The Environmental Protection Agency's National Priority List;

23 (b) The Environmental Protection Agency's National Priority List Equivalent
24 Sites; or

25 (c) Land that is subject to a corrective action under the Federal Resource
26 Conservation and Recovery Act of 1976; and

27 (3) Placed in service in this state by the qualified taxpayer during the tax year
28 for which the tax credit is claimed.

29 3. A lessor shall give a qualified taxpayer who leases solar energy property from
30 such lessor a statement that describes the solar energy property and states the cost of the
31 property. A qualified taxpayer shall not take the tax credit under this section for solar
32 energy property that the qualified taxpayer leases from a lessor unless the qualified
33 taxpayer obtains the lessor's written certification that the lessor shall not claim a tax
34 credit under this section for such property.

35 4. A tax credit is not allowed under this section if the cost of the solar energy
36 property is provided by public funds. For the purposes of this section, "public funds"
37 does not include federal grants or tax credits.

38 5. (1) The tax credit is earned in the year in which the solar energy property is
39 placed in service but shall be taken in five equal annual installments, beginning within
40 three years of the year in which the solar energy property is placed in service. Unused
41 credit may be carried forward for five tax years from the year that the credit was first
42 able to be taken. Tax credits issued under the provisions of this section shall not be
43 refundable.

44 (2) If the solar energy property for which the tax credit is claimed is disposed of,
45 taken out of service, or moved out of the state in a year in which the installment of a
46 credit accrues, then the credit expires and the qualified taxpayer shall not take any
47 remaining installments of the credit.

48 6. A tax credit for each installation of solar energy property placed in service
49 shall not exceed five million dollars. The tax credit is allowed on a first-come, first-
50 served basis, and the cumulative amount of credits available to be taken, pursuant to the
51 five equal annual installments, for all qualified taxpayers in a tax year shall not exceed
52 two million five hundred thousand dollars in the aggregate per tax year.

53 7. A qualified taxpayer who claims any other state tax credit allowed with
54 respect to solar energy property shall not take the tax credit allowed under this section
55 with respect to the same property.

56 8. To the extent that the qualified taxpayer is a partnership or a limited liability
57 company taxed as a partnership, the tax credit, including any unused credit amount
58 carried forward, may be passed through to the partners or members and may be
59 allocated among any of its partners or members on an annual basis including, without
60 limitation, an allocation of the entire credit or unused carryforward to any partner or
61 member who was a member or partner at any time in a year in which the tax credit or
62 unused carryforward is allocated. The allocation shall be allowed without regard to any
63 provision of the Internal Revenue Code or regulations promulgated pursuant thereto
64 that may be interpreted as contrary to the allocation including, without limitation, the
65 treatment of the allocation as a disguised sale.

66 9. The department of revenue shall promulgate all necessary rules and
67 regulations for the administration of this section. Any rule or portion of a rule, as that
68 term is defined in section 536.010, that is created under the authority delegated in this
69 section shall become effective only if it complies with and is subject to all of the
70 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
71 536 are nonseverable and if any of the powers vested with the general assembly
72 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
73 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
74 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

75 10. Under section 23.253 of the Missouri sunset act:

76 (1) The provisions of the new program authorized under this section shall
77 automatically sunset December thirty-first six years after the effective date of this
78 section unless reauthorized by an act of the general assembly;

79 (2) If such program is reauthorized, the program authorized under this section
80 shall automatically sunset December thirty-first twelve years after the effective date of
81 the reauthorization of this section;

82 (3) This section shall terminate on September first of the calendar year
83 immediately following the calendar year in which the provisions authorized under this
84 section are sunset; and

85 (4) Nothing in this subsection shall prevent a taxpayer from claiming a tax credit
86 properly issued before this program was sunset in a tax year after the program is sunset.