AMENDED

January 26, 2016

**H. 3874**

Introduced by Reps. Mitchell, Cobb‑Hunter, Merrill, Loftis, Dillard and Govan

S. Printed 1/26/16--S.

Read the first time May 4, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑3770 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES RENEWABLE ENERGY PROPERTY AND PLACES IT IN SERVICE IN THIS STATE, AND TO PROVIDE A DEFINITION OF “RENEWABLE ENERGY PROPERTY”.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3770. (A) A taxpayer who constructs, purchases, or leases solar energy property located on the Environmental Protection Agency’s National Priority List, National Priority List Equivalent Sites, or on a list of related removal actions, as certified by the Department of Health and Environmental Control, located in the State of South Carolina and places it in service in this State during the taxable year, is allowed an income tax credit equal to twenty‑five percent of the cost, including the cost of installation, of the property. The credit is earned in the year in which the solar energy property is placed in service, but must be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year in which the credit was able to be taken. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this section to the extent the cost of the solar energy property is provided by public funds. For purposes of this section, ‘public funds’ does not include grants made pursuant to Section 1603 of the American Recovery and Reinvestment Tax Act of 2009.

(B) If the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of the State in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

(C) A credit for each installation of solar energy property placed in service may not exceed two million five hundred thousand dollars. The credit is allowed on a first come first serve basis, and the total amount of credits available to be taken, pursuant to the five equal annual installments, for all taxpayers in a taxable year may not exceed two million five hundred thousand dollars in the aggregate.

(D) A taxpayer who claims any other credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for solar energy property the taxpayer leases from another unless the taxpayer obtains the lessor’s written certification that the lessor will not claim a credit pursuant to this section with respect to the property.

(E) The Department of Revenue may promulgate regulations necessary to implement the provisions of this section.

(F) For purposes of this section, ‘solar energy property’ means any nonresidential solar energy equipment with a nameplate capacity of at least two thousand kilowatts (2,000 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 also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.”

B. This section takes effect in income tax years beginning after 2015. The provisions of this act are repealed on December 31, 2016, except that if the credit allowed by Section 12‑6‑3770, as added by this act, is earned before the repeal, the provisions of Section 12‑6‑3770 continue to apply until the credits have been fully claimed.

SECTION 2. A. Section 12-6-3587 of the 1976 Code is amended to read:

“Section 12-6-3587. (A) There is allowed as a tax credit against the income tax liability of a taxpayer imposed by this chapter an amount equal to twenty‑five percent of the costs incurred by the taxpayer in the purchase and installation of a solar energy system, ~~or~~ small hydropower system, or geothermal machinery and equipment or real property for heating water, space heating, air cooling, energy‑efficient daylighting, heat reclamation, energy‑efficient demand response, or the generation of electricity in or on a facility in South Carolina and owned by the taxpayer. The tax credit allowed by this section must not be claimed before the completion of the installation. The amount of the credit in any year may not exceed three thousand five hundred dollars for each facility or fifty percent of the taxpayer’s tax liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars for each facility, the taxpayer may carry forward the excess for up to ten years.

(B) “System” includes all controls, tanks, pumps, heat exchangers, and other equipment used directly and exclusively for the solar energy system. The term “system” does not include any land or structural elements of the building such as walls and roofs or other equipment ordinarily contained in the structure. A credit may not be allowed for a solar system unless the system is certified for performance by the nonprofit Solar Rating and Certification Corporation or a comparable entity endorsed by the State Energy Office.

(C) For purposes of this section, “small hydropower system” means new generation capacity on a nonimpoundment or on an existing impoundment that:

(1) meets licensing standards as defined by the Federal Energy Regulatory Commission (FERC);

(2) is a run‑of‑the‑river facility with a capacity not to exceed 5MW; or

(3) consists of a turbine in a pipeline or in an irrigation canal.

(D) For purposes of this section, ‘geothermal machinery and equipment or real property’ means machinery and equipment or real property for use at the taxpayer’s residence that either:

(1) is a heat pump that uses the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure; or

(2) uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating or cooling; and

(3) on the date of installation, meets or exceeds applicable federal Energy Star requirements.

B. The provisions contained in this SECTION related to geothermal machinery and equipment or real property are repealed January 1, 2019.

C. This SECTION takes effect on January 1, 2016.

SECTION 3. This act takes effect upon approval of the Governor.

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