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SENATE BILL 795

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO TAXATION; PROVIDING THAT PROPERTY OWNED BY A LIMITED LIABILITY COMPANY OR OTHER BUSINESS ASSOCIATION IS ELIGIBLE FOR THE SOLAR MARKET DEVELOPMENT TAX CREDIT; PROVIDING THAT THE SOLAR MARKET DEVELOPMENT TAX CREDIT SHALL BE REFUNDABLE FOR CERTAIN TAXPAYERS; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-18.14 NMSA 1978 (being Laws 2006, Chapter 93, Section 1) is amended to read:

"7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
MARKET DEVELOPMENT TAX CREDIT.--

A. Except as provided in Subsection [B] C of this section, a taxpayer who files an individual New Mexico income
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1 tax return for a taxable year beginning on or after January 1,
2 2006 and who purchases and installs after January 1, 2006 but
3 before December 31, 2015 a solar thermal system or a
4 photovoltaic system in a residence, business or agricultural
5 enterprise in New Mexico [~~owned by that taxpayer~~] may apply
6 for, and the department may allow, a solar market development
7 tax credit [~~of up to~~] if the residence, business or
8 agricultural enterprise is:

9 (1) owned by the taxpayer; or

10 (2) owned by a limited liability company or
11 other business association of which the taxpayer is an owner.

12 B. The amount of the solar market development tax
13 credit shall be not more than thirty percent of the purchase
14 and installation costs of the system; provided that under no
15 circumstances shall the federal and state tax credits
16 allowed, when combined, total more than thirty percent of the
17 purchase and installation cost of the system. To determine
18 the amount of the state solar market development tax credit
19 due pursuant to this section, the amount of the allowable
20 federal tax credit, whether claimed or not claimed by the
21 taxpayer, shall be deducted from thirty percent of the
22 purchase and installation cost of the system. The total
23 solar market development tax credit allowed for either a
24 photovoltaic system or a solar thermal system shall not
25 exceed nine thousand dollars (\$9,000). The department shall

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1 allow solar market development tax credits only for solar
2 thermal systems and photovoltaic systems certified by the
3 energy, minerals and natural resources department.

4 ~~[B.]~~ C. Solar market development tax credits may
5 not be claimed or allowed for:

6 (1) a heating system for a swimming pool or
7 a hot tub; or

8 (2) a commercial or industrial photovoltaic
9 system other than an agricultural photovoltaic system on a
10 farm or ranch that is not connected to an electric utility
11 transmission or distribution system.

12 ~~[C.]~~ D. The department may allow a maximum annual
13 aggregate of:

14 (1) two million dollars (\$2,000,000) in
15 solar market development tax credits for solar thermal
16 systems; and

17 (2) three million dollars (\$3,000,000) in
18 solar market development tax credits for photovoltaic
19 systems.

20 ~~[D.]~~ E. A portion of the solar market development
21 tax credit that remains unused in a taxable year may be
22 carried forward for a maximum of ten consecutive taxable
23 years following the taxable year in which the credit
24 originates until fully expended.

25 F. If the amount of the tax credit allowed by the

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underscored material = new
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1 department exceeds the taxpayer's income tax liability for
2 the taxable year, and if the taxpayer has a modified gross
3 income for the taxable year of less than one hundred fifty
4 percent of the federal poverty level, the excess may be
5 refunded to the taxpayer.

6 G. A husband and wife who file separate returns
7 for a taxable year in which they could have filed a joint
8 return may each claim only one-half of the credit that would
9 have been allowed on a joint return.

10 ~~[E.]~~ H. Prior to July 1, 2006, the energy,
11 minerals and natural resources department shall adopt rules
12 establishing procedures to provide certification of solar
13 thermal systems and photovoltaic systems for purposes of
14 obtaining a solar market development tax credit. The rules
15 shall address technical specifications and requirements
16 relating to safety, code and standards compliance, solar
17 collector orientation and sun exposure, minimum system sizes,
18 system applications and lists of eligible components. The
19 energy, minerals and natural resources department may modify
20 the specifications and requirements as necessary to maintain
21 a high level of system quality and performance.

22 ~~[F.]~~ I. As used in this section:

23 (1) "photovoltaic system" means an energy
24 system that collects or absorbs sunlight for conversion into
25 electricity; and

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(2) "solar thermal system" means an energy system that collects or absorbs solar energy for conversion into heat for the purposes of space heating, space cooling or water heating."

Section 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2007.