

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Crawford, Simrill, Stavrinakis, Erickson & Daning - Staff Contact: Emma Hall)

SENATE BILL 901

S. 910 -- Senator Verdin, et al: A BILL TO AMEND SECTION 12-6-3775, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INCOME TAX CREDITS, SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES CERTAIN SOLAR ENERGY PROPERTY AND THAT PLACES IT IN SERVICE IN THIS STATE, AND TO DEFINE NECESSARY TERMS; AND TO REPEAL SECTION 4 B. OF ACT 77 OF 2019 RELATING TO THE REPEAL OF SECTION 12-6-3775.

Summary of Bill:

This bill reinstates §12-6-3775, which provides a nonresidential solar energy tax credit. The credit is equal to 25 percent of the cost, including installation, of nonresidential solar property as long as the property is located within specific sites in South Carolina. This bill also increases the credit limit for each installation from \$2.5 million to \$5 million, which is allowed on a first-come, first-served basis.

Estimated Revenue Impact:

A total decrease of general fund income tax revenue of up to \$17,500,000 from FY 2022-23 to FY 2028-29.

Subcommittee Recommendation:

Favorable with amendments

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN/NEWBOULT
APRIL 27, 2022

CLERK OF THE HOUSE

THE SALES AND USE TAX AND INCOME TAX SUBCOMMITTEE
PROPOSES THE FOLLOWING AMENDMENT NO. TO S. 901
(COUNCIL\SA\901C003.JN.SA22):

REFERENCE IS TO PRINTER'S DATE 2/24/22-S.

**AMEND THE BILL, AS AND IF AMENDED, BY ADDING
APPROPRIATELY NUMBERED SECTIONS AT THE
END TO READ:**

**/ SECTION __. SECTION 12-36-2630(2) OF
THE 1976 CODE IS AMENDED TO READ:**

**“(2) A ONE PERCENT TAX, WHICH MUST BE
CREDITED AS PROVIDED IN SECTION
59-21-1010(B). THE ONE PERCENT TAX SPECIFIED
IN THIS ITEM (2) DOES NOT APPLY TO SALES TO AN
INDIVIDUAL ~~EIGHTY-FIVE~~ SEVENTY-EIGHT YEARS**

OF AGE OR OLDER PURCHASING TANGIBLE PERSONAL PROPERTY FOR HIS OWN PERSONAL USE, IF AT THE TIME OF SALE, THE INDIVIDUAL REQUESTS THE ONE PERCENT EXCLUSION FROM TAX AND PROVIDES THE RETAILER WITH PROOF OF AGE; AND”

SECTION __. ARTICLE 9, CHAPTER 36, TITLE 12 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 12-36-922. FOR EACH ACCOMMODATIONS TAX RETURN FILED WITH MULTIPLE LOCATIONS, THE FILER ALSO MUST PROVIDE ELECTRONICALLY THE LOCATION INFORMATION BY ADDRESS AND THE AMOUNT OF NET TAXABLE SALES FOR EACH LOCATION.”

SECTION __.A. SECTION 12-36-2110(A)(1)(D) OF THE 1976 CODE IS AMENDED TO READ:

“(D) BOAT AND WATERCRAFT MOTOR;”

B. THIS SECTION TAKES EFFECT UPON APPROVAL BY THE GOVERNOR AND FIRST APPLIES ON JULY 1, 2022.

SECTION __. ARTICLE 25, CHAPTER 6, TITLE 12 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 12-6-3710. (A) FOR TAX YEARS BEGINNING AFTER 2021, THERE IS ALLOWED A TAX CREDIT FOR ANY TAXPAYER THAT HIRES A FORMERLY INCARCERATED INDIVIDUAL, AFTER 2021 BUT BEFORE 2027, AS A NEW EMPLOYEE IN A REGISTERED APPRENTICESHIP PROGRAM THAT HAS BEEN VALIDATED BY THE UNITED STATES DEPARTMENT OF LABOR. AN EMPLOYER WHO HAS ONE OR MORE ELIGIBLE EMPLOYEES IS ELIGIBLE TO APPLY FOR AND RECEIVE A CREDIT AGAINST THE TAXES SET FORTH IN SUBSECTION (B). IN THE FIRST YEAR IN WHICH THE CREDIT IS EARNED PURSUANT TO SUBSECTION (D), THE AMOUNT OF THE CREDIT IS THREE THOUSAND DOLLARS FOR EACH ELIGIBLE EMPLOYEE. IF THE ELIGIBLE EMPLOYEE REMAINS EMPLOYED AND OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION THEREAFTER, THE CREDIT IS TWO THOUSAND FIVE HUNDRED DOLLARS IN THE SECOND YEAR, AND ONE THOUSAND DOLLARS IN THE THIRD YEAR. THE CREDIT MAY NOT BE CLAIMED BEYOND THE THIRD YEAR.

(B) THE CREDIT ALLOWED PURSUANT TO THIS SECTION MAY BE TAKEN AGAINST THE INCOME TAXES IMPOSED PURSUANT TO THIS CHAPTER, THE BANK TAX IMPOSED PURSUANT TO CHAPTER 11 OF THIS TITLE, THE SAVINGS AND LOAN ASSOCIATION TAX IMPOSED PURSUANT TO CHAPTER 13 OF THIS TITLE, THE CORPORATE LICENSE TAX IMPOSED PURSUANT TO CHAPTER 20 OF THIS TITLE, AND INSURANCE PREMIUM TAXES IMPOSED PURSUANT TO CHAPTER 7, TITLE 38.

(C) THE TOTAL AMOUNT OF THE TAX CREDIT FOR A TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY. ANY UNUSED CREDIT MAY NOT BE CARRIED OVER TO APPLY TO THE TAXPAYER'S SUCCEEDING YEAR'S LIABILITY.

(D)(1) THE TAX CREDIT IS EARNED IN THE YEAR IN WHICH THE FORMERLY INCARCERATED INDIVIDUAL FIRST COMPLETES THE TWELFTH CONSECUTIVE MONTH OF EMPLOYMENT WITH THE TAXPAYER. THE CREDIT IS EARNED IN THE SAME MANNER AND ON THE SAME SCHEDULE IN THE SECOND AND THIRD YEAR OF EMPLOYMENT.

(2) THE TAX CREDIT ALLOWED BY THIS SECTION ONLY MAY BE CLAIMED FOR AN ELIGIBLE INDIVIDUAL ONCE, REGARDLESS OF THE EMPLOYER. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF COMMERCE, APPRENTICESHIP CAROLINA OF THE SOUTH CAROLINA TECHNICAL COLLEGE SYSTEM, AND ANY OTHER AGENCY OR ENTITY NECESSARY TO ESTABLISH A PROCESS BY WHICH EMPLOYERS ARE AWARE OF AN INDIVIDUAL'S ELIGIBILITY FOR THE CREDIT ALLOWED BY THIS SECTION.

(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE CREDIT ALLOWED BY THIS SECTION ONLY MAY BE CLAIMED IF THE FORMERLY INCARCERATED INDIVIDUAL IS HIRED BY THE EMPLOYER, AFTER 2021 BUT BEFORE 2027, AS A NEW EMPLOYEE IN THE REGISTERED APPRENTICESHIP PROGRAM. IF THE INDIVIDUAL IS HIRED BEFORE 2027, THEN THE EMPLOYER MAY CLAIM THE CREDIT FOR EACH YEAR THE INDIVIDUAL IS ELIGIBLE AND ON THE SAME SCHEDULE AS PROVIDED IN THIS SECTION.

(F) THE DEPARTMENT MAY PRESCRIBE FORMS AND PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING REQUIRING THE NECESSARY DOCUMENTATION TO PROVE ELIGIBILITY.

(G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ALLOW AN EMPLOYER TO CLAIM THIS CREDIT FOR A FORMERLY INCARCERATED INDIVIDUAL IF THE INDIVIDUAL WAS HIRED BEFORE 2022.

(H) FOR PURPOSES OF THIS SECTION:

(1) 'FULL-TIME' HAS THE SAME MEANING AS PROVIDED IN SECTION 12-6-3360.

(2) 'INCARCERATED INDIVIDUAL' MEANS AN INDIVIDUAL THAT, WITHIN THREE YEARS OF BEING HIRED IN A QUALIFYING APPRENTICESHIP PROGRAM, WAS HELD IN A STATE OR COUNTY PRISON, JAIL, OR DETENTION CENTER FOR AT LEAST NINETY CONSECUTIVE DAYS, BUT DOES NOT INCLUDE AN INDIVIDUAL INCARCERATED FOR A VIOLENT CRIME SET FORTH IN SECTION 16-1-60, UNLESS SUCH INDIVIDUAL RECEIVED A PARDON FOR THE OFFENSE OR UNLESS THE ONLY DISQUALIFYING VIOLENT CRIME RESULTED IN A SENTENCE OF TEN YEARS OR LESS UNDER SECTION 44-53-370(E) OR SECTION 44-53-375(C).

SECTION 12-6-3720. (A) FOR TAX YEARS BEGINNING AFTER 2021, THERE IS ALLOWED A TAX CREDIT FOR ANY TAXPAYER THAT HIRES A VETERAN OF THE ARMED FORCES OF THE UNITED STATES, AFTER 2021 BUT BEFORE 2027, AS A NEW EMPLOYEE IN A REGISTERED APPRENTICESHIP PROGRAM THAT HAS BEEN VALIDATED BY THE UNITED STATES DEPARTMENT OF LABOR. AN EMPLOYER WHO HAS ONE OR MORE ELIGIBLE EMPLOYEES IS ELIGIBLE TO APPLY FOR AND RECEIVE A CREDIT AGAINST THE TAXES SET FORTH IN SUBSECTION (B). IN THE FIRST YEAR IN WHICH THE CREDIT IS EARNED PURSUANT TO SUBSECTION (D), THE AMOUNT OF THE CREDIT IS THREE THOUSAND DOLLARS FOR EACH ELIGIBLE EMPLOYEE. IF THE ELIGIBLE EMPLOYEE REMAINS EMPLOYED AND OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION THEREAFTER, THE CREDIT IS TWO THOUSAND FIVE HUNDRED DOLLARS IN THE SECOND YEAR, AND ONE THOUSAND DOLLARS IN THE THIRD YEAR. THE CREDIT MAY NOT BE CLAIMED BEYOND THE THIRD YEAR.

(B) THE CREDIT ALLOWED PURSUANT TO THIS SECTION MAY BE TAKEN AGAINST THE INCOME TAXES IMPOSED PURSUANT TO THIS CHAPTER, THE BANK TAX IMPOSED PURSUANT TO CHAPTER 11 OF THIS TITLE, THE SAVINGS AND LOAN ASSOCIATION TAX IMPOSED PURSUANT

TO CHAPTER 13 OF THIS TITLE, THE CORPORATE LICENSE TAX IMPOSED PURSUANT TO CHAPTER 20 OF THIS TITLE, AND INSURANCE PREMIUM TAXES IMPOSED PURSUANT TO CHAPTER 7, TITLE 38.

(C) THE TOTAL AMOUNT OF THE TAX CREDIT FOR A TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S TAX LIABILITY. ANY UNUSED CREDIT MAY NOT BE CARRIED OVER TO APPLY TO THE TAXPAYER'S SUCCEEDING YEAR'S LIABILITY.

(D)(1) THE TAX CREDIT IS EARNED IN THE YEAR IN WHICH THE VETERAN FIRST COMPLETES THE TWELFTH CONSECUTIVE MONTH OF EMPLOYMENT WITH THE TAXPAYER. THE CREDIT IS EARNED IN THE SAME MANNER AND ON THE SAME SCHEDULE IN THE SECOND AND THIRD YEAR OF EMPLOYMENT.

(2) THE TAX CREDIT ALLOWED BY THIS SECTION ONLY MAY BE CLAIMED FOR AN ELIGIBLE INDIVIDUAL ONCE, REGARDLESS OF THE EMPLOYER. THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF COMMERCE, APPRENTICESHIP CAROLINA OF THE SOUTH CAROLINA TECHNICAL COLLEGE SYSTEM, AND ANY OTHER AGENCY OR DEPARTMENT NECESSARY TO ESTABLISH A PROCESS BY WHICH EMPLOYERS ARE AWARE OF AN INDIVIDUAL'S ELIGIBILITY FOR THE CREDIT ALLOWED BY THIS SECTION.

(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE CREDIT ALLOWED BY THIS SECTION ONLY MAY BE CLAIMED IF THE VETERAN IS HIRED, AFTER 2021 BUT BEFORE 2027, BY THE EMPLOYER AS A NEW EMPLOYEE IN THE REGISTERED APPRENTICESHIP PROGRAM. IF THE INDIVIDUAL IS EMPLOYED BEFORE 2027, THEN THE EMPLOYER MAY CLAIM THE CREDIT FOR EACH YEAR THE INDIVIDUAL IS ELIGIBLE AND ON THE SAME SCHEDULE AS PROVIDED IN THIS SECTION.

(F) THE DEPARTMENT MAY PRESCRIBE FORMS AND PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING REQUIRING THE NECESSARY DOCUMENTATION TO PROVE ELIGIBILITY.

(G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ALLOW AN EMPLOYER TO CLAIM THIS CREDIT FOR A VETERAN IF THE VETERAN WAS HIRED BEFORE THE EFFECTIVE DATE OF THIS SECTION.

(H) FOR PURPOSES OF THIS SECTION:

(1) 'FULL-TIME' HAS THE SAME MEANING AS PROVIDED IN SECTION 12-6-3360.

(2) 'VETERAN' MEANS A PERSON WHO SERVED ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES AND WHO, WITHIN THREE YEARS OF BEING HIRED IN A QUALIFYING APPRENTICESHIP PROGRAM, WAS HONORABLY DISCHARGED OR RELEASED FROM SUCH SERVICE DUE TO A SERVICE-CONNECTED DISABILITY." /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 0901	Introduced on January 6, 2022
Author:	Verdin	
Subject:	Solar Energy	
Requestor:	Senate Finance	
RFA Analyst(s):	Gallagher	
Impact Date:	February 2, 2022	

Fiscal Impact Summary

This bill reinstates §12-6-3775, which provides a nonresidential solar energy tax credit. This bill amends the repeal date from December 31, 2021, to December 31, 2024, and increases the credit limit for each installation of solar energy property placed-in-service from \$2,500,000 to \$5,000,000. The credit must be claimed in five annual installments and is subject to an aggregate limit of \$2,500,000 per tax year. Further, in the event the taxpayer is a partnership or a limited liability company taxed as a partnership, this bill allows the credit and credit carry-forward to be passed through and allocated to the partners or members as long as the placed-in-service date is after 2019.

The Department of Revenue (DOR) indicates that any expenses related to the modification of tax forms from the reinstatement of the credit and increase in the credit limit can be administered with existing resources. Therefore, this bill will not have an expenditure impact on the agency.

This bill will decrease General Fund revenue by up to \$2,500,000 a year beginning in FY 2022-23 through FY 2028-29, at which time all entities will have fully utilized their five annual credit installments. This results in a total decrease in General Fund income tax revenue by up to \$17,500,000 from FY 2022-23 through FY 2028-29. Taxpayers are allowed to carry forward unused credits for five taxable years from the year the credit was able to be taken, which may extend the timing of the impact.

Explanation of Fiscal Impact

Introduced on January 6, 2022

State Expenditure

This bill reinstates §12-6-3775, which provides a nonresidential solar energy tax credit. This bill amends the repeal date from December 31, 2021, to December 31, 2024, and increases the credit limit for each installation of solar energy property placed-in-service from \$2,500,000 to \$5,000,000. DOR indicates that any expenses related to the modification of tax forms from the reinstatement of the credit and increase in the credit limit can be administered with existing resources. Therefore, this bill will not have an expenditure impact on the agency.

State Revenue

This bill reinstates §12-6-3775, which provides a nonresidential solar energy tax credit. This bill amends the repeal date from December 31, 2021 to December 31, 2024. This section allows for an income tax credit equal to 25 percent of the cost, including installation, of nonresidential solar energy property as long as the property is located within one of the following sites within South Carolina:

- the EPA's National Priority List,
- the EPA's National Priority List Equivalent Sites,
- a list of related removal actions as certified by DHEC,
- land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017,
- land that is subject to corrective action under the Federal Resource Conservation and Recovery Act of 1976, or
- land that is owned by the Pinewood Site Custodial Trust.

The credit is earned in the tax year that the solar energy property is placed-in-service and must be taken in five equal annual installments. The credit must be claimed within three years of the year it was earned. Unused credits may be carried forward for five years from the year the credit was able to be taken. Further, if a taxpayer is a partnership or a limited liability company taxed as a partnership, the credit and credit carry forward may be passed through and allocated to the partners or members as long as the placed-in-service date is after 2019.

This bill increases the credit limit for each installation of solar energy property placed-in-service from \$2,500,000 to \$5,000,000. The credit is allowed on a first-come, first-served basis, and the total amount of credits may not exceed \$2,500,000 for all taxpayers in a taxable year. If a credit is earned and any portion taken pursuant to §12-6-3775 before tax year 2022, then the individual is beholden to §12-6-3775 as it existed on December 31, 2021. Without the extension of the repeal date from December 31, 2021 to December 31, 2024, all credits would effectively be claimed by tax year 2025.

This analysis assumes taxpayers claim the first annual installment of the credit in the year it is earned and then every consecutive year until the total five annual installments are fully utilized. Based on discussions with DOR, income tax data attributed to the Solar Energy Property Credit reported on form TC-58 is inaccurate due to misreporting by individuals claiming the Solar Energy Credit, which should be reported on form TC-38. Based upon information from DOR, only one taxpayer is currently expected to apply for the credit in tax year 2022 if reinstated. However, others may apply for the credit if it is reestablished. As such, this analysis assumes taxpayers will claim the full \$2,500,000 aggregate credit limit per year in FY 2022-23 through FY 2028-29, at which time all credits are assumed to be effectively claimed. This results in a total decrease in General Fund income tax revenue of up to \$17,500,000 from FY 2022-23 to FY 2028-29. Taxpayers are allowed to carry forward unused credits for five taxable years from the year the credit was able to be taken, which may extend the timing of the impact.

Local Expenditure and Local Revenue

N/A



Frank A. Rainwater, Executive Director

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A BILL

11 TO AMEND SECTION 12-6-3775, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO INCOME TAX CREDITS,
13 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO AN
14 INDIVIDUAL OR BUSINESS THAT CONSTRUCTS,
15 PURCHASES, OR LEASES CERTAIN SOLAR ENERGY
16 PROPERTY AND THAT PLACES IT IN SERVICE IN THIS
17 STATE, AND TO DEFINE NECESSARY TERMS; AND TO
18 REPEAL SECTION 4 B. OF ACT 77 OF 2019 RELATING TO
19 THE REPEAL OF SECTION 12-6-3775.

20
21 Be it enacted by the General Assembly of the State of South
22 Carolina:

23
24 SECTION 1. A. Section 12-6-3775 as it existed on December 31,
25 2021, is reenacted retroactively, subject to the amendments
26 contained in SECTION 2.

27
28 B. This SECTION takes effect upon approval by the Governor
29 and applies to income tax years beginning after 2021.

30
31 C. Section 4 B. of Act 77 of 2019 is repealed.

32
33 SECTION 2.A. Section 12-6-3775 of the 1976 Code is amended to
34 read:

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36 “Section 12-6-3775. (A) For the purposes of this section, ‘solar
37 energy property’ means any nonresidential solar energy equipment
38 with a nameplate capacity of at least one thousand nine hundred
39 kilowatts (1,900 kw AC) that uses solar radiation as a substitute for
40 traditional energy for water heating, active space heating and
41 cooling, passive heating, daylighting, generating electricity,
42 distillation, desalination, detoxification, or the production of

1 industrial or commercial process heat. The term also includes
2 related devices necessary for collecting, storing, exchanging,
3 conditioning, or converting solar energy to other useful forms of
4 energy.

5 (B)(1) A taxpayer is allowed an income tax credit equal to twenty
6 five percent of the cost, including the cost of installation, of a solar
7 energy property if he constructs, purchases, or leases a solar energy
8 property that is located in the State of South Carolina and if:

9 (a) the property is located on:

10 (i) the Environmental Protection Agency's National
11 Priority List;

12 (ii) the Environmental Protection Agency's National
13 Priority List Equivalent Sites;

14 (iii) a list of related removal actions, as certified by the
15 Department of Health and Environmental Control;

16 (iv) land that is subject to a Voluntary Cleanup Contract
17 with the Department of Health and Environmental Control as of
18 December 31, 2017, or to corrective action under the Federal
19 Resource Conservation and Recovery Act of 1976; or

20 (v) land that is owned by the Pinewood Site Custodial
21 Trust; and

22 (b) he places it in service in this State during the taxable
23 year.

24 (2) The credit is earned in the year in which the solar energy
25 property is placed in service but must be taken in five equal annual
26 installments, beginning ~~in~~ within three years of the year in which
27 the solar energy property is placed in service. Unused credit may be
28 carried forward for five taxable years from the year that the credit
29 was able to be taken. A lessor shall give a taxpayer who leases solar
30 energy property from him a statement that describes the solar energy
31 property and states the cost of the property upon request. A credit is
32 not allowed pursuant to this section if the cost of the solar energy
33 property is provided by public funds. For the purposes of this
34 section, 'public funds' does not include federal grants or tax credits.

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

40 (D) A credit for each installation of solar energy property placed
41 in service may not exceed ~~two~~ five million ~~five hundred thousand~~
42 dollars. The credit is allowed on a first come, first served basis, and
43 the total amount of credits available to be taken, pursuant to the five

1 equal annual installments, for all taxpayers in a taxable year, may
2 not exceed two million five hundred thousand dollars in the
3 aggregate.

4 (E) A taxpayer who claims any other state credit allowed with
5 respect to solar energy property may not take the credit allowed in
6 this section with respect to the same property. A taxpayer may not
7 take the credit allowed in this section for solar energy property that
8 the taxpayer leases from another unless the taxpayer obtains the
9 lessor's written certification that the lessor will not claim a credit
10 pursuant to this section with respect to the property.

11 (F) The department may promulgate regulations necessary to
12 implement the provisions of this section.

13 (G) To the extent that the taxpayer is a partnership or a limited
14 liability company taxed as a partnership, the credit, including any
15 unused credit amount carried forward, may be passed through to the
16 partners or members and may be allocated among any of its partners
17 or members on an annual basis including, without limitation, an
18 allocation of the entire credit or unused carryforward to any partner
19 or member who was a member or partner at any time in the year in
20 which the credit or unused carryforward is allocated. The allocation
21 must be allowed without regard to any provision of the Internal
22 Revenue Code or regulations promulgated pursuant thereto, that
23 may be interpreted as contrary to the allocation including, without
24 limitation, the treatment of the allocation as a disguised sale. This
25 subsection only applies to credits earned for a solar energy property
26 placed in service after 2019."

27

28 B. This SECTION takes effect upon approval by the Governor and
29 first applies to income tax years beginning after 2021.

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31 SECTION 3. (A) Except as otherwise provided, this act takes
32 effect upon approval by the Governor.

33 (B)(1) If a solar energy tax credit is earned and any portion taken
34 pursuant to Section 12-6-3775 before 2022, then the provisions of
35 Section 12-6-3775 as they existed on December 31, 2021, continue
36 to apply to such credits until the credits have been fully claimed.

37 (2) If a solar energy tax credit is earned pursuant to Section
38 12-6-3775 after 2021, but before the effective date of this act, then
39 the reenacted provisions of Section 12-6-3775, as amended pursuant
40 to SECTION 2, apply.

41 (C) The provisions of Section 12-6-3775 are repealed on
42 December 31, 2024, except that if the credit allowed by Section
43 12-6-3775 is earned before the repeal, then the provisions of Section

1 12-6-3775, as amended, continue to apply until the credits have been
2 fully claimed.

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