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RE: HB 734 – Property Tax - Agricultural Use Assessment - Community Solar Energy Generating Systems

Favorable with Amendment

Chair Wilkins and members of the House Ways and Means Committee,

The Coalition for Community Solar Access (CCSA) provides this written testimony regarding House Bill (HB) 734. CCSA's position on this legislation is Favorable with Amendment.

CCSA is a national, business-led trade organization, composed of over 100 member companies, that works to expand access to clean, local, affordable energy nationwide through the development of robust community solar programs. Community solar projects involve medium-scale solar facilities that are shared by multiple community subscribers who receive credit on their electricity bills for their share of the power produced.

CCSA supports Delegate Roberson's HB 734, which amends Tax – Property Article § 8-209 to align the qualification period for the agricultural use assessment for agrivoltaic projects with the personal property tax exemption (also for agrivoltaic projects) found in the Tax – Property Article § 7-237. Under § 7-237, agrivoltaic community solar projects may qualify for a county/municipal personal property tax exemption, if approved on or before December 31, **2030.** However, the Tax – Property Article § 8-209 currently allows land used for agrivoltaics to be assessed and qualified as land that is actively used for farm and agricultural purposes (i.e., and agricultural use assessment), if approved on or before December 31, **2025**. HB 734 amends § 8-209 so that the qualification period is also December 31, 2030. This is a technical but important correction to ensure eligible projects can continue to be officially recognized as agrivoltaics for the purposes of participating in the community solar program.

As defined under Public Utilities Article § 7-306.2, a community solar project seeking qualification as an agrivoltaic project must maintain an agricultural use assessment under the standards of COMAR 18.02.03 or the Maryland Assessment Procedures Manual. The value of that qualification in the community solar program is that it allows for the co-location of community solar projects up to 10 megawatts rather than 5 megawatts. The economies-of-scale benefit for the project acts as a policy incentive for the market to pursue agrivoltaics.

CCSA is seeking a narrowly tailored amendment to HB 734 (attached hereto) to address a timing mismatch that is currently hindering the development of agrivoltaic community solar projects. Under current practice, the State Department of Assessments and Taxation (SDAT) determines whether a project qualifies for agricultural use assessment after it is constructed. As noted, that determination is critical because projects that qualify as agrivoltaics are permitted to co-locate solar generation with agricultural use, and therefore, can determine whether a project is viable at all. However, there is currently no mechanism for SDAT to review and confirm in advance of construction whether a proposed agricultural plan associated with an agrivoltaic project would satisfy the requirements for agricultural use assessment. This conflicts with the market reality for the vast majority of community solar projects, which require financing commitments *prior* to construction. Developers must secure funding for multi-million-dollar projects before the project is built and before agricultural operations are fully underway.

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The lack of an early confirmation mechanism creates significant uncertainty for lenders and investors. Without confidence that a project's agrivoltaic plan will qualify, financing becomes more difficult to obtain. As a result, otherwise viable agrivoltaic community solar projects are delayed or abandoned, undermining the policy goal of expanding agrivoltaics in Maryland.

CCSA's proposed amendment would authorize SDAT to review and confirm whether an applicant's agricultural use plan would meet the requirements for agricultural assessment. Importantly, projects would still be required to *implement* the approved agricultural plan in order to receive and maintain the agricultural use assessment, and SDAT would retain authority to revoke eligibility if the parcel fails to meet ongoing agricultural requirements.

Notably, the attached amendment allows SDAT to recover the administrative costs of reviewing these plans through a fee charged to the applicant. As such, the amendment should not create a fiscal impact, and SDAT would be fully compensated for its review.

HB 734, with the additional amendment recommended by CCSA, will provide clarity and certainty without weakening agricultural standards. It preserves SDAT's authority, ensures compliance with agricultural use requirements, and facilitates responsible agrivoltaic development consistent with the intent of this important policy.

For these reasons, CCSA respectfully requests a Favorable with Amendment report on HB 734.

Sincerely,

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CCSA Amendment to HB 734

AMENDMENT NO. 1

On page 2, after line 21, insert:

"**(5) ON WRITTEN REQUEST OF AN APPLICANT, THE DEPARTMENT SHALL ISSUE A WRITTEN PRECONSTRUCTION DETERMINATION STATING WHETHER THE LAND THAT IS THE SUBJECT OF THE REQUEST WILL QUALIFY TO BE ASSESSED AS FARM OR AGRICULTURAL USE LAND UNDER THIS SECTION IF THE PROPOSED COMMUNITY SOLAR ENERGY GENERATING SYSTEM IS CONSTRUCTED AND OPERATED SUBSTANTIALLY IN ACCORDANCE WITH THE MATERIALS SUBMITTED UNDER PARAGRAPH (6) OF THIS SUBSECTION.**

(6) AN APPLICATION FOR A PRECONSTRUCTION DETERMINATION SHALL INCLUDE:

(I) IDENTIFICATION OF THE PARCEL OR PARCELS;

(II) A SITE PLAN SHOWING THE PROPOSED SOLAR LAYOUT AND THE ACREAGE TO REMAIN IN AGRICULTURAL ACTIVITY;

(III) AN AGRIVOLTAICS PLAN DESCRIBING:

1. THE AGRICULTURAL ACTIVITY TO BE CONDUCTED DURING OPERATION OF THE COMMUNITY SOLAR ENERGY GENERATING SYSTEM;

2. ACCESS AND FEATURES NECESSARY TO CONDUCT THE AGRICULTURAL ACTIVITY; AND

3. HOW THE DESIGN OF THE COMMUNITY SOLAR ENERGY GENERATING SYSTEM WILL ALLOW FOR AGRICULTURAL ACTIVITY;

(IV) AN ESTIMATED CONSTRUCTION SCHEDULE AND THE PROPOSED IN-SERVICE DATE; AND

(V) ANY OTHER INFORMATION REQUIRED BY DEPARTMENT REGULATION THAT IS REASONABLY NECESSARY TO APPLY THE CRITERIA ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

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(7) WITHIN 90 DAYS AFTER WHEN THE DEPARTMENT RECEIVES A COMPLETE APPLICATION FOR A PRECONSTRUCTION DETERMINATION UNDER PARAGRAPH (6) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) ISSUE A FAVORABLE THE PRECONSTRUCTION DETERMINATION;

(II) DENY THE WRITTEN PRECONSTRUCTION DETERMINATION; OR

(III) NOTIFY THE APPLICANT IN WRITING OF THE ADDITIONAL INFORMATION REQUIRED TO COMPLETE REVIEW.

(8) A PARCEL OR PARCELS SUBJECT TO A FAVORABLE WRITTEN PRECONSTRUCTION DETERMINATION UNDER THIS PARAGRAPH SHALL BE ASSESSED AND QUALIFIED BY THE DEPARTMENT AS FARM OR AGRICULTURAL USE LAND UPON VERIFICATION THAT THE PROJECT IS CONSTRUCTED AND OPERATED IN ACCORDANCE WITH THE APPROVED MATERIALS.

(9) AN APPROVED WRITTEN PRECONSTRUCTION DETERMINATION ISSUED BY THE DEPARTMENT UNDER PARAGRAPH (7)(I) OF THIS SUBSECTION SHALL QUALIFY THE LAND AS SATISFYING § 7-306.2(A)(2)(I)1 OF THE PUBLIC UTILITIES ARTICLE.

(10) THE DEPARTMENT MAY RESCIND A FAVORABLE PRECONSTRUCTION DETERMINATION IF THE DEPARTMENT FINDS THAT:

(I) THE COMMUNITY SOLAR ENERGY GENERATING SYSTEM, AS CONSTRUCTED OR OPERATED, MATERIALLY DIFFERS FROM THE APPROVED MATERIALS;

(II) AGRICULTURAL ACTIVITY IS NOT BEING MAINTAINED IN ACCORDANCE WITH THIS SECTION AND DEPARTMENT REGULATIONS; OR

(III) THE APPLICANT PROVIDED MATERIALLY INACCURATE INFORMATION IN ITS APPLICATION.

(11) THE DEPARTMENT MAY CHARGE AN APPLICATION FEE FOR A REQUEST UNDER THIS PARAGRAPH IN AN AMOUNT NECESSARY TO RECOVER THE DEPARTMENT'S COSTS TO ADMINISTER AND IMPLEMENT THIS SUBSECTION."