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SENATE BILL NO. 1141

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend the Code of Virginia by adding sections numbered 58.1-331.1 and 58.1-431.1, relating to renewable energy property tax credit.

Patron—Lucas

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 58.1-331.1 and 58.1-431.1 as follows:

§ 58.1-331.1. Renewable energy property tax credit.

A. For the purposes of this section:

"Department" means the Virginia Department of Mines, Minerals and Energy.

"Photovoltaic property" means an energy system or solar panel that collects or absorbs sunlight for conversion into electricity and that has been certified as meeting all applicable safety standards of Underwriters Laboratories. Systems that are interconnected with the utility grid shall comply with performance and safety standards established by the Virginia State Corporation Commission in accordance with § 56-594.

"Renewable energy property" means photovoltaic property, solar water heating property, or wind-powered electrical generator property.

"Solar water heating property" means a solar energy system that collects or absorbs solar energy to generate hot water or air for space heating or water heating. Solar water heating systems shall meet the operational guidelines for an OG-300 certified solar water heating system as established by the Solar Rating and Certification Corporation. Solar space heating panels that heat air shall meet the operational guidelines for an OG-100 certified solar panel.

"Wind-powered electrical generator property" means an electrical generating unit that (i) uses wind as its total source of fuel, (ii) is intended primarily to offset all or part of the owner's electricity requirements, (iii) meets all applicable performance and quality standards specified by the Virginia Department of Mines, Minerals and Energy, and (iv) for units that are interconnected with the utility grid, complies with performance and safety standards established by the Virginia State Corporation Commission in accordance with § 56-594.

B. For taxable years beginning on or after January 1, 2009, any individual shall be allowed a credit against the tax imposed by § 58.1-320 for qualifying renewable energy property placed in service during the taxable year.

C. The amount of such credit shall not exceed:

1. \$2,000 for each kilowatt of photovoltaic property, not to exceed \$8,000 per system or the total cost of the system, whichever is less;

2. \$1,500 for each kilowatt of wind-powered electrical generators, not to exceed \$6,000 per system or the total cost of the system, whichever is less; or

3. \$1,000 for each kilowatt equivalent of solar water heating property, as determined by the Department, not to exceed \$4,000 per system or the total cost of the system, whichever is less.

D. Credits shall be granted by the Department on a first-come, first-served basis until the aggregate amount of all tax credits granted under this section equals \$1,000,000 in a given year.

E. An individual seeking to claim any tax credit provided for under this section shall submit an application to the Department for approval of such tax credit. The Department shall establish the guidelines and forms on which the application is to be submitted. The Department shall within 14 days review such application and shall approve such application upon determining that it meets all guidelines. Actions by the Department relating to the allocation and awarding of credits under this section shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § 2.2-4002.

F. The taxpayer shall submit with his income tax return all documentation as required by the Department of Taxation. Any credit not usable for the taxable year may be carried over the next three taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year.

G. Any taxpayer entitled to a credit under this section may transfer unused but otherwise allowable credits for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any

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59 amount of the credit in accordance with this section shall file a notification of such transfer to the
60 Department of Taxation in accordance with procedures and forms prescribed by the Tax Commissioner.
61 § 58.1-431.1. Renewable energy property tax credit.

62 A. For the purposes of this section:

63 "Department" means the Virginia Department of Mines, Minerals and Energy.

64 "Photovoltaic property" means an energy system or solar panel that collects or absorbs sunlight for
65 conversion into electricity and that has been certified as meeting all applicable safety standards of
66 Underwriters Laboratories. Systems that are interconnected with the utility grid shall comply with
67 performance and safety standards established by the Virginia State Corporation Commission in
68 accordance with § 56-594.

69 "Renewable energy property" means photovoltaic property, solar water heating property, or
70 wind-powered electrical generator property.

71 "Solar water heating property" means a solar energy system that collects or absorbs solar energy to
72 generate hot water or air for space heating or water heating. Solar water heating systems shall meet the
73 operational guidelines for an OG-300 certified solar water heating system as established by the Solar
74 Rating and Certification Corporation. Solar space heating panels that heat air shall meet the
75 operational guidelines for an OG-100 certified solar panel.

76 "Wind-powered electrical generator property" means an electrical generating unit that (i) uses wind
77 as its total source of fuel, (ii) is intended primarily to offset all or part of the owner's electricity
78 requirements, (iii) meets all applicable performance and quality standards specified by the Virginia
79 Department of Mines, Minerals and Energy, and (iv) for units that are interconnected with the utility
80 grid, complies with performance and safety standards established by the Virginia State Corporation
81 Commission in accordance with § 56-594.

82 B. For taxable years beginning on or after January 1, 2009, any corporation shall be allowed a
83 credit against the tax imposed by § 58.1-400 for qualifying renewable energy property placed in service
84 during the taxable year.

85 C. The amount of such credit shall not exceed:

86 1. \$2,000 for each kilowatt of photovoltaic property, not to exceed \$20,000 per system or the total
87 cost of the system, whichever is less;

88 2. \$1,500 for each kilowatt of wind-powered electrical generators, not to exceed \$15,000 per system
89 or the total cost of the system, whichever is less; or

90 3. \$1,000 for each kilowatt equivalent of solar water heating property, as determined by the
91 Department, not to exceed \$10,000 per system or the total cost of the system, whichever is less.

92 D. Credits shall be granted by the Department on a first-come, first-served basis until the aggregate
93 amount of all tax credits granted under this section equals \$1,000,000 in a given year.

94 E. A corporation seeking to claim any tax credit provided for under this section shall submit an
95 application to the Department for approval of such tax credit. The Department shall establish the
96 guidelines and forms on which the application is to be submitted. The Department shall within 14 days
97 review such application and shall certify that the taxpayer has satisfied the requirements of this section
98 for the tax year in which the credit is allowed. Actions by the Department relating to the allocation and
99 awarding of credits under this section shall be except from the provisions of the Administrative Process
100 Act pursuant to subdivision B 4 of § 2.2-4002.

101 F. The taxpayer shall submit with its income tax return all documentation as required by the
102 Department of Taxation. Any credit not usable for the taxable year may be carried over the next three
103 taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax
104 imposed for such taxable year.

105 G. Any taxpayer entitled to a credit under this section may transfer unused but otherwise allowable
106 credits for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any
107 amount of the credit in accordance with this section shall file a notification of such transfer to the
108 Department of Taxation in accordance with procedures and forms prescribed by the Tax Commissioner.

109 H. For purposes of this section, the amount of any credit attributable to a partnership, electing small
110 business corporation (S corporation), or limited liability company shall be allocated to the partners,
111 shareholders, or members, respectively, in proportion to their ownership or interest in such business
112 entity.

113 2. That this act is effective for taxable years beginning on and after January 1, 2009.