

096009260

## SENATE BILL NO. 1141

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on January 28, 2009)

(Patron Prior to Substitute—Senator Lucas)

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.

**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.

"Renewable energy property" means a solar photovoltaic system, a solar thermal system, or a wind-powered electrical generator.

"Solar photovoltaic system" 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.

"Solar thermal system" 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" means an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is intended primarily to offset all or part of the owner's electricity requirements, (iv) meets all applicable performance and quality standards specified by the Virginia Department of Mines, Minerals and Energy, and (v) 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 a solar photovoltaic system, 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 a solar thermal system, 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 to 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 amount of the credit in accordance with this section shall file a notification of such transfer to the Department of Taxation in accordance with procedures and forms prescribed by the Tax Commissioner.

§ 58.1-431.1. Renewable energy property tax credit.

60 A. For the purposes of this section:

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

62 "Renewable energy property" means a solar photovoltaic system, a solar thermal system, or a  
63 wind-powered electrical generator.

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

74 "Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of  
75 not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is intended primarily to offset  
76 all or part of the owner's electricity requirements, (iv) meets all applicable performance and quality  
77 standards specified by the Virginia Department of Mines, Minerals, and Energy, and (v) for units that  
78 are interconnected with the utility grid, complies with performance and safety standards established by  
79 the Virginia State Corporation Commission in accordance with § 56-594.

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

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

84 1. \$2,000 for each kilowatt of a solar photovoltaic system, not to exceed \$20,000 per system or the  
85 total cost of the system, whichever is less;

86 2. \$1,500 for each kilowatt of wind-powered electrical generators, not to exceed \$15,000 per system  
87 or the total cost of the system, whichever is less; or

88 3. \$1,000 for each kilowatt equivalent of a solar thermal system, as determined by the Department,  
89 not to exceed \$10,000 per system or the total cost of the system, whichever is less.

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

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

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

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

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

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