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SENATE BILL NO. 1430

Offered January 16, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 36-55.49:1, relating to grants to certain purchasers of principal residences that are newly constructed and the issuance of bonds in an aggregate principal amount not to exceed \$50,000,000 for purposes of funding the grants.*

Patrons—Stosch, Hanger, McEachin, Stuart, Vogel, Wagner and Watkins; Delegates: Hall, Ingram, Massie and Oder

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 36-55.49:1 as follows:

§ 36-55.49:1. Administration of grants to be paid to certain purchasers of principal residences.

A. As used in this section, unless the context clearly indicates otherwise, the term or phrase:

"Eligible homebuyer" means an individual whose federal adjusted gross income for the taxable year immediately preceding the taxable year of such individual's qualified purchase of a newly constructed residence did not exceed \$150,000 for married persons and \$75,000 for all other persons. In addition, the individual and his spouse, if married, shall have had no present ownership interest in a principal residence during the three-year period ending on the purchase date of the principal residence for which grants may be paid under this section.

"Purchase" means the same as such term is defined in § 36(c) of the Internal Revenue Code of 1954, as amended or renumbered.

"Qualified purchase of a newly constructed residence" means the purchase by an eligible homebuyer or homebuyers of a principal residence in the Commonwealth that was first issued a certificate of occupancy on or after July 1, 2007, but before July 1, 2009.

B. HDA shall administer a program awarding grants to certain eligible homebuyers who, on or after July 1, 2009, make a qualified purchase of a newly constructed residence. The maximum amount of grants that HDA may award for such qualified purchase shall not exceed (i) \$7,500 for eligible homebuyers who are married, and (ii) \$3,750 for eligible homebuyers who are single. HDA shall not award grants for any principal residence that is constructed by the taxpayer.

HDA shall make such grant payments using the proceeds of bonds issued by the Treasury Board for purposes of funding the grant program described under this section (and any other funds as may be appropriated by the General Assembly), as may be provided by law. In no case shall HDA award grants if such proceeds or other funds are unavailable for payment of the grants.

C. HDA, in consultation with the Virginia Economic Development Partnership, shall develop and publish guidelines to implement the provisions of the grant program. Among other items, the guidelines shall address (i) the application process to be completed by eligible homebuyers applying for a grant, (ii) the time frame in which grants are to be awarded, (iii) standardized and objective rules and policies for determining the amount of the grant to be paid for the qualified purchase of a newly constructed residence, and (iv) recapture of grants paid if the eligible homebuyer disposes of the residence (or such residence ceases to be the principal residence of the eligible homebuyer and, if married, the eligible homebuyer's spouse) within two years from the date of the qualified purchase.

In implementing the grant program, HDA shall award grants in those cases in which the grant award is likely to result in the collection of additional state taxes and fees including, but not limited to, recordation and grantor's taxes, income taxes paid by real estate developers and real estate agents relating to qualified purchases, and incremental or new sales taxes paid by real estate developers on construction materials and machinery.

The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

2. § 1. That this act shall be known and may be cited as the "Commonwealth of Virginia First-Time Homebuyer Program Bond Act of 2009."

§ 2. The Treasury Board is hereby authorized, by and with the consent of the Governor, to issue from time to time revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia First-Time Homebuyer Program Bonds, Series ..," at one or more times in an aggregate principal amount not to exceed \$50,000,000 (exclusive of any obligations that may be issued to refund such Bonds) to finance the costs of the grant program described in § 3 plus an amount for financing expenses (including, without limitation, any original issue discount) (the "Bonds"). The Bonds shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit

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58 of the Commonwealth.

59 All Bonds authorized under this Act shall be issued no later than January 1, 2011. The schedule for
60 the issuance of the Bonds and the payment of debt service on the Bonds shall be as provided in the
61 general appropriation act, with such debt service to be paid from general funds.

62 § 3. The net proceeds of the Bonds, including any premium received on the sale thereof, shall be
63 disbursed by the State Treasurer to the Virginia Housing Development Authority. The Authority shall
64 use such proceeds solely for the purpose of providing funds, together with any other available funds, for
65 paying grants to certain eligible homebuyers purchasing a principal residence in the Commonwealth
66 that was first issued a certificate of occupancy on or after July 1, 2007, but before July 1, 2009. Such
67 grant program and eligible homebuyers shall be as described and defined under the grant program set
68 forth in § 36-55.49:1 of the Code of Virginia.

69 The issuance of the Bonds and the payment of such grants shall not, except as provided herein or in
70 § 36-55.49:1 of the Code of Virginia, affect, modify or otherwise alter the powers and duties of the
71 Virginia Housing Development Authority.

72 The proceeds of the Bonds, together with any investment earnings thereon, may at the discretion of
73 the State Treasurer secure the payment of principal or purchase price of and redemption premium, if
74 any, and interest on the Bonds.

75 § 4. The terms and structure of each issue of the Bonds shall be determined by the Treasury Board.
76 The Bonds of each issue shall be dated, shall be issued in a principal amount (subject to the limitation
77 as to the aggregate principal amount set forth in § 2), shall bear interest at such rate or rates which
78 may be fixed, adjustable, variable or a combination thereof, and may be determined by a formula or
79 other method, shall mature at such time or times not exceeding 20 years after the issuance thereof, and
80 may be made subject to purchase or redemption before their maturity or maturities, at such price or
81 prices and under such terms and conditions, all as may be determined by the Treasury Board. The
82 Treasury Board shall determine the form of the Bonds, whether the Bonds are certificated or
83 uncertificated, and fix the authorized denomination or denominations of the Bonds and the place or
84 places of payment of principal or purchase price of, and redemption premium, if any, and interest on,
85 the Bonds, which may be at the office of the State Treasurer or any bank or trust company within or
86 without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and
87 interest on, the Bonds shall be made payable in lawful money of the United States of America. Each
88 issue of the Bonds may be issued under a system of book entry for recording the ownership and transfer
89 of ownership of rights to receive payments of principal or purchase price of, and redemption premium,
90 if any, and interest on such Bonds.

91 The Treasury Board may sell the Bonds from time to time at public or private sale, by competitive
92 bidding, negotiated sale or private placement, for such price or prices as it may determine to be in the
93 best interests of the Commonwealth.

94 § 5. All expenses incurred under this Act or in connection with issuance of the Bonds shall be paid
95 from the proceeds of such Bonds or from any available funds as the Treasury Board shall determine.

96 § 6. The Treasury Board is hereby authorized to borrow money at such rate or rates through the
97 execution and issuance of notes for the same, but only in the following circumstances and under the
98 following conditions:

99 a. In anticipation of the sale of the Bonds the issuance of which shall have been authorized by the
100 Treasury Board and shall have been approved by the Governor, if the Treasury Board shall deem it
101 advisable to postpone the issuance of such Bonds; or

102 b. For the renewal of any anticipation notes herein authorized.

103 § 7. The proceeds of the Bonds and of any anticipation notes herein authorized (except the proceeds
104 of the Bonds the issuance of which has been anticipated by such anticipation notes) shall be placed by
105 the State Treasurer in a special fund in the state treasury and shall be disbursed only for the purpose
106 for which such Bonds and such anticipation notes shall be issued; provided, however, proceeds derived
107 from the sale of the Bonds herein authorized shall be first used in the payment of any anticipation notes
108 that may have been issued in anticipation of the sale of such Bonds and any renewals of such notes.

109 § 8. The Treasury Board is hereby authorized to receive any other funds that may be made available
110 to finance the costs of the grant program described in § 3 and, subject to appropriation, to make
111 available the same to the payment of the principal or purchase price of, and redemption premium, if
112 any, and interest on, the Bonds authorized hereby and to enter into the appropriate agreements to allow
113 for those funds to be paid into the state treasury to finance a part of the costs of the grant program
114 described in § 3 or to pay principal or purchase price of, and redemption premium, if any, and interest
115 on the Bonds.

116 § 9. The Treasury Board, in connection with the issuance of the Bonds, shall establish a fund in the
117 state treasury, which shall secure and be used for the payment of the Bonds to the credit of which there
118 shall be deposited such amounts, subject to their appropriation therefor by the General Assembly, as are
119 required to pay principal or purchase price of, and redemption premium, if any, and interest on, the

120 Bonds, as and when due and payable, from any funds that may be designated by the General Assembly
121 for such purpose.

122 § 10. Bond proceeds and monies in any reserve funds and sinking funds in respect of the Bonds shall
123 be invested by the State Treasurer in accordance with the provisions of general law relating to the
124 investment of such funds belonging to or in the control of the Commonwealth.

125 § 11. The interest income from, and any profit made on the sale of, the obligations issued under the
126 provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by
127 any municipality, county, or other political subdivision thereof.

128 § 12. All obligations issued under the provisions of this Act are hereby made securities in which all
129 public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance
130 companies and associations, all national banks and trust companies and savings institutions, including
131 savings and loan associations, in the Commonwealth, and all executors, administrators, trustees, and
132 other fiduciaries, both individual or corporate, may properly and legally invest funds within their
133 control.