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SENATE BILL NO. 1430

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 5, 2009)

(Patron Prior to Substitute—Senator Stosch)

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.

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, 2010.

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 through a loan program administered by HDA. 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 Virginia Public Building Authority 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 pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264 of the Code of Virginia, the General Assembly hereby authorizes the Virginia Public Building Authority to finance the homebuyer grant program described under § 36-55.49:1 of the Code of Virginia. Pursuant to such grant program, grants shall be paid to certain eligible homebuyers purchasing a principal residence in the Commonwealth that was first issued a certificate of occupancy on or after July 1, 2007, but before July 1, 2010. Such grant program and eligible homebuyers shall be as described and defined under § 36-55.49:1.

§ 2. The Virginia Public Building Authority is authorized to exercise any and all powers granted to it by law in connection with financing the grant program described in § 1, including the power to finance the cost of the grant program by the issuance of revenue bonds from time to time in a principal amount not to exceed \$50,000,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, and other financing expenses. The net proceeds of the bonds, including any premium received

60 *on the sale thereof, shall be disbursed to the Virginia Housing Development Authority.*

61 *The issuance of the bonds and the payment of such grants shall not, except as provided herein or in*
62 *§ 36-55.49:1, affect, modify, or otherwise alter the powers and duties of the Virginia Housing*
63 *Development Authority. All bonds authorized under § 2 shall be issued no later than January 1, 2011.*

64 *§ 3. The general conditions and general provisions of the general appropriation act enacted pursuant*
65 *to Chapter 15 (§ 2.2-1500 et seq.) of Title 2.2 of the Code of Virginia, in effect from time to time, and*
66 *all of the terms and conditions contained therein shall apply to the grant program described in § 1.*

67 **3. That the provisions of this act shall become effective July 1, 2009, if (i) the American Recovery**
68 **and Reinvestment Act of 2009 (H.R. 1, 111th Congress, 1st Session), or similar federal legislation,**
69 **that makes supplemental appropriations for job preservation and creation, infrastructure**
70 **investment, energy efficiency and science, assistance to the unemployed, and state and local fiscal**
71 **stabilization is enacted into law prior to March 27, 2009; and (ii) such federal legislation allows at**
72 **least \$50 million of such supplemental appropriations to be used for the homebuyer grant**
73 **program under this act. Determinations as to whether the conditions under clauses (i) and (ii)**
74 **have been met shall be made by the Secretary of Finance in writing to the Governor by no later**
75 **than April 1, 2009.**

76 **4. If the provisions of this act do not become effective pursuant to the third enactment of this act,**
77 **then the provisions of this act shall not become effective unless the State Treasurer by September**
78 **1, 2009, makes a written certification to the Governor that any bonds or other indebtedness issued**
79 **or entered into pursuant to the provisions of this act would not negatively impact the debt**
80 **capacity of the Commonwealth, taking into consideration the additional state taxes and fees**
81 **described under subsection C of § 36-55.49:1 of the Code of Virginia that likely would be realized**
82 **from the awarding of a grant pursuant to such section.**