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HOUSE BILL NO. 1046

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.12 and by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03, relating to tax credits for charitable donations to nonprofits for Energy Star qualified property.*

Patrons—Kory and Surovell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.12 and by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03 as follows:

§ 58.1-339.12. Nonprofit charitable donations for Energy Star qualified products tax credit.

A. For taxable years beginning on or after January 1, 2010, any taxpayer shall be allowed a credit against the tax imposed by § 58.1-320 in an amount equaling 50 percent of donations made to any qualified nonprofit organization on or after January 1, 2010. Such donations shall be used to construct, purchase, or lease Energy Star qualified products that are used in the qualified nonprofit organization's headquarters.

B. For purposes of this section:

"Energy Star qualified products" means products labeled Energy Star that have been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding such agency's requirements under the federal tax credit program for consumer energy efficiency; and

"Qualified nonprofit organization" means an organization that is exempt from taxation under § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code that maintains complete records, including but not limited to the purpose for which donations are spent.

C. The amount of the credit shall not exceed \$25,000 annually for donations made by the taxpayer with regard to this section or the tax imposed by this chapter, whichever is less. The qualified nonprofit organization shall provide the donating taxpayer a statement setting out the amount of the credit for which the taxpayer qualifies. The statement must describe the Energy Star qualified products placed in service and state the cost of the products and the taxpayer's share of the credit allowed in this section. If the donations made for the Energy Star qualified products exceed the cost of the products, the qualified nonprofit organization must prorate each taxpayer's share of the credit. If the credit exceeds the tax imposed by this chapter for the taxable year, such excess may be carried over for the next five taxable years by the taxpayer.

D. Any taxpayer that qualifies for and takes the credit allowed in accordance with this section shall not be allowed to take the credit under § 58.1-439.12:03.

§ 58.1-439.12:03. Nonprofit charitable donations for Energy Star qualified products tax credit.

A. For taxable years beginning on or after January 1, 2010, any taxpayer shall be allowed a credit against the tax imposed by § 58.1-320 in an amount equaling 50 percent of donations made to any qualified nonprofit organization on or after January 1, 2010. Such donations shall be used to construct, purchase, or lease Energy Star qualified products that are used in the qualified nonprofit organization's headquarters.

B. For purposes of this section:

"Energy Star qualified products" means products labeled Energy Star that have been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding such agency's requirements under the federal tax credit program for consumer energy efficiency; and

"Qualified nonprofit organization" means an organization that is exempt from taxation under § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code that maintains complete records, including but not limited to the purpose for which donations are spent.

C. The amount of the credit shall not exceed \$25,000 annually for donations made by the taxpayer with regard to this section or the tax imposed by this chapter, whichever is less. The qualified nonprofit organization shall provide the donating taxpayer a statement setting out the amount of the credit for which the taxpayer qualifies. The statement must describe the Energy Star qualified products placed in

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59 service and state the cost of the products and the taxpayer's share of the credit allowed in this section.
60 If the donations made for the Energy Star qualified products exceed the cost of the products, the
61 qualified nonprofit organization must prorate each taxpayer's share of the credit. If the credit exceeds
62 the tax imposed by this chapter for the taxable year, such excess may be carried over for the next five
63 taxable years by the taxpayer.

64 D. For purposes of this section, the amount of any credit attributable to charitable donations in
65 accordance with this section by a partnership or electing small business corporation (S corporation) or
66 limited liability company shall be allocated to the individual partners, shareholders, or members in
67 proportion to their ownership or interest in such business entity.

68 E. Any taxpayer that qualifies for and takes the credit allowed in accordance with this section shall
69 not be allowed to take the credit under § 58.1-339.12.