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## SENATE BILL NO. 262

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 8, 2012)

(Patron Prior to Substitute—Senator Ebbin)

A BILL to amend the Code of Virginia by adding in Chapter 9 of Title 2.2 sections numbered 2.2-904.3 and 2.2-904.4, relating to the Microenterprise Investment Grant Program.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 9 of Title 2.2 sections numbered 2.2-904.3 and 2.2-904.4 as follows:

§ 2.2-904.3. Microenterprise Investment Grant Fund.

From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Microenterprise Investment Grant Fund (the Fund), to be administered by the Department of Business Assistance. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. Moneys in the Fund shall be used solely for the purpose of grants to eligible applicants to the Microenterprise Investment Grant Program pursuant to § 2.2-904.4.

§ 2.2-904.4. Microenterprise Investment Grant Program.

A. As used in this section, unless the context requires a different meaning:

"Fund" means the Microenterprise Investment Grant Fund established pursuant to § 2.2-904.3.

"Grant" means a grant issued pursuant to the Microenterprise Investment Grant Program.

"Green business" means a business engaged in the fields of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen and fuel cell technology, landfill gas, geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems. The Secretary of Commerce and Trade shall develop a detailed definition of the industries in which an investment would qualify for a credit under this section.

"HUBZone" means an area designated as a Historically Underutilized Business Zone by the U.S. Small Business Administration.

"Microenterprise" means a business with 10 or fewer employees that is located in the Commonwealth and is not primarily engaged in real estate, professional services, or financial services.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds such investment, or any of the taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from the qualified business in exchange for services provided to such business as an employee, officer, director, manager, independent contractor, or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

B. Beginning January 1, 2013, an individual who makes a qualified investment shall be eligible to apply for a grant from the Fund. Such grant shall be allocated as follows:

1. For a qualified investment in a microenterprise located in an area designated as a HUBZone at the time of the investment, a grant equal to 25 percent of the individual's qualified investment, to be granted over a three-year period as follows:

a. Fifteen percent during the calendar year in which the investment was made; and

b. Five percent during each of the two years immediately following the calendar year in which the investment was made;

2. For a qualified investment in a microenterprise green business, a grant equal to 25 percent of the individual's qualified investment, to be granted over a three-year period as follows:

a. Fifteen percent during the calendar year in which the investment was made; and

60       *b. Five percent during each of the two years immediately following the calendar year in which the*  
61 *investment was made; and*

62       *3. For a qualified investment in any other microenterprise, a grant equal to 20 percent of the*  
63 *individual's qualified investment, to be granted over a three-year period as follows:*

64       *a. Ten percent during the calendar year in which the investment was made; and*

65       *b. Five percent during each of the two years immediately following the calendar year in which the*  
66 *investment was made.*

67       *C. No grant shall be given to an individual that has committed capital under management in excess*  
68 *of \$10 million and engages in the business of making debt or equity investments in private businesses or*  
69 *to any individual that is would be allocated a share of the grant proceeds as a partner, shareholder,*  
70 *member, or owner of an entity that engages in such business.*

71       *D. The aggregate amount of the grant for each individual shall not exceed \$12,500.*

72       *E. The Department shall verify the amount of the grant. Grants shall be issued in the order that*  
73 *each completed eligible application is received. In the event that the amount of eligible grants requested*  
74 *in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year*  
75 *in which funds are available.*

76       *E. The Department of Business Assistance, with the assistance of the Virginia Economic Development*  
77 *Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the*  
78 *grant. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).*

79       **2. That the provisions of this act shall not become effective unless an appropriation of general**  
80 **funds effectuating the purposes of this act is included in a general appropriation act passed by the**  
81 **2012 Session of the General Assembly, which becomes law.**