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HOUSE BILL NO. 331**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations
on February 3, 2014)

(Patron Prior to Substitute—Delegate Greason)

A *BILL* to amend and reenact § 58.1-322 of the Code of Virginia and to amend the Code of Virginia by adding in Title 55 a chapter numbered 32, consisting of sections numbered 55-555 through 55-559, relating to the establishment of first-time home buyer savings plans for the purchase of single-family residences; exempting the earnings on such plans from taxation.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-322 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 55 a chapter numbered 32, consisting of sections numbered 55-555 through 55-559, as follows:

CHAPTER 32.**FIRST-TIME HOME BUYER SAVINGS PLANS ACT.****§ 55-555. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Account holder" means an individual who establishes, individually or jointly with one or more other individuals, an account with a financial institution for which the account holder claims a first-time home buyer savings account status on his Virginia income tax return.

"Allowable closing costs" means a disbursement listed on a settlement statement for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary.

"Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in the Commonwealth.

"First-time home buyer savings account" or "account" means an account with a financial institution for which the account holder claims first-time home buyer savings account status on his Virginia income tax return for taxable year 2014 or any taxable year thereafter, pursuant to this chapter for the purpose of paying or reimbursing eligible costs for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary. Financial institutions shall not be required to (i) designate an account as a first-time home buyer savings account, or designate the beneficiaries of such accounts, in the financial institutions' account contracts or systems or in any other way; (ii) track the use of funds withdrawn from such accounts; (iii) allocate funds in such accounts among joint account owners or multiple beneficiaries; or (iv) report any of the information stated in clauses (i), (ii), or (iii) to the Department of Taxation or other governmental agency. Financial institutions shall not be responsible for or liable for (a) determining or ensuring that an account satisfies the requirements to be a first-time home buyer savings account, (b) determining or ensuring that costs are eligible costs, or (c) reporting or remitting taxes or penalties for such accounts.

"Qualified beneficiary" means an individual or individuals only who reside in the Commonwealth at the time of settlement on the purchase of a single-family residence in the Commonwealth who (i) have never owned or purchased under contract for deed, either individually or jointly, a single-family residence in the Commonwealth or outside of the Commonwealth; (ii) are designated as the beneficiary of an account designated by the account holder as a first-time home buyer savings account; and (iii) may apply moneys or funds held in such account for eligible costs. A qualified beneficiary may use the funds from such account for eligible costs regardless of whether such qualified beneficiary purchases the single-family residence as sole owner or jointly with another individual.

"Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. § 2601 et seq., as amended, and the regulations thereunder, or an executed sales agreement for the purchase of a manufactured home being conveyed as personal property.

"Single-family residence" means a single-family residence owned and occupied by a qualified beneficiary, including a manufactured home, trailer, mobile home, condominium unit, or cooperative.

§ 55-556. Claiming first-time home buyer status.

A. The account holder shall be responsible for the use or application of moneys or funds in an account for which the account holder claims first-time home buyer savings account status.

B. The account holder shall (i) not use moneys or funds held in an account to pay expenses of

60 administering the account, except that a service fee may be deducted from the account by a financial
61 institution; (ii) maintain documentation of the segregation of moneys or funds in separate accounts and
62 documentation of eligible costs for the purchase of a single-family residence in the Commonwealth; such
63 documentation may include the settlement statement; (iii) file, with the account holder's Virginia income
64 tax return, forms developed by the Department of Taxation regarding treatment of the account as a
65 first-time home buyer savings account under this chapter, along with the Form 1099 issued by the
66 financial institution for such account; and (iv) remit to the Department of Taxation the tax on any
67 amounts (a) added to individual income pursuant to subdivision B 10 of § 58.1-322 or (b) recaptured
68 pursuant to subdivision C 36 of § 58.1-322.

69 C. The Tax Commissioner shall develop guidelines applicable to account holders to implement the
70 provisions of this chapter. Such guidelines shall be exempt from the provisions of the Administrative
71 Process Act (§ 2.2-4000 et seq.). Such guidelines shall not apply to, or impose administrative, reporting,
72 or other obligations or requirements on, financial institutions-related accounts for which first-time home
73 buyer savings account status is claimed by the account holder.

74 **§ 55-557. Tax exemption; conditions.**

75 A. All interest or other income earned attributable to an account shall be excluded from the Virginia
76 taxable income of the account holder as provided under subdivision C 36 of § 58.1-322.

77 B. There shall be an aggregate limit of \$50,000 per account on the amount of principal for which
78 the account holder may claim first-time home buyer savings account status. Only cash and marketable
79 securities may be contributed to an account.

80 C. Subject to the aggregate limit on the amount of principal that may be contributed to an account
81 pursuant to subsection B, there shall be a limitation of \$150,000 on the amount of principal and interest
82 or other income on the principal that may be retained within an account.

83 D. An account holder shall be subject to Virginia income tax pursuant to subdivision B 10 of
84 § 58.1-322 to the extent of any loss deducted as a capital loss by the individual for federal income tax
85 purposes attributable to the person's account.

86 E. Upon being furnished proof of the death of the account holder, a financial institution shall
87 distribute the principal and accumulated interest or other income in the account in accordance with the
88 terms of the contract governing the account.

89 **§ 55-558. Withdrawal of funds from account for purposes other than eligible costs for first-time**
90 **home purchase.**

91 If moneys or funds are withdrawn from an account for any purpose other than the payment of
92 eligible costs by or on behalf of a qualified beneficiary, there shall be imposed a penalty calculated
93 using the Form 1099 showing the amount of income exempted from state income tax and a five percent
94 penalty shall be assessed on the amount of exempted income. The penalty shall be paid to the
95 Department of Taxation. In addition, as provided under subdivision C 36 of § 58.1-322, the account
96 holder shall also be subject to recapture of income that was subtracted pursuant to that subdivision.

97 Such five percent penalty shall not apply to, and there shall be no recapture of income with regard
98 to, the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified
99 beneficiary's death or disability, (ii) a disbursement of assets of the account pursuant to a filing for
100 protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, or (iii) transferred
101 from an account established pursuant to this chapter into another account established pursuant to this
102 chapter for the benefit of another qualified beneficiary.

103 **§ 55-559. False claims prohibited.**

104 A person who knowingly prepares or causes to be prepared a false claim, receipt, statement, or
105 billing to avoid or evade taxes or penalties upon the withdrawal of money or funds from an account for
106 which the account holder claims first-time home buyer savings account status is guilty of a Class 1
107 misdemeanor.

108 **§ 58.1-322. Virginia taxable income of residents.**

109 A. The Virginia taxable income of a resident individual means his federal adjusted gross income for
110 the taxable year, which excludes combat pay for certain members of the Armed Forces of the United
111 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications
112 specified in this section.

113 B. To the extent excluded from federal adjusted gross income, there shall be added:

114 1. Interest, less related expenses to the extent not deducted in determining federal income, on
115 obligations of any state other than Virginia, or of a political subdivision of any such other state unless
116 created by compact or agreement to which Virginia is a party;

117 2. Interest or dividends, less related expenses to the extent not deducted in determining federal
118 taxable income, on obligations or securities of any authority, commission or instrumentality of the
119 United States, which the laws of the United States exempt from federal income tax but not from state
120 income taxes;

121 3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes that is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code; and

5 through 8. [Repealed.]

9. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code; and

10. For taxable years beginning on and after January 1, 2014, any loss for the taxable year that was deducted as a capital loss for federal income tax purposes by an account holder attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55. For purposes of this subdivision, "account holder" and "first-time home buyer savings account" mean the same as those terms are defined in § 55-555.

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. [Repealed.]

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. Through December 31, 2000, the same amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22(b)(2) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7, 8. [Repealed.]

9. [Expired.]

10. Any amount included therein less than \$600 from a prize awarded by the State Lottery Department.

11. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified herein.

12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

13. [Repealed.]

14. [Expired.]

15, 16. [Repealed.]

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

18. [Repealed.]

19. For taxable years beginning on and after January 1, 1996, any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the

183 Internal Revenue Code, an individual retirement account or annuity established under § 408 of the
184 Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code,
185 or any federal government retirement program, the contributions to which were deductible from the
186 taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or
187 program were subject to taxation under the income tax in another state.

188 20. For taxable years beginning on and after January 1, 1997, any income attributable to a
189 distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the
190 Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The
191 subtraction for any income attributable to a refund shall be limited to income attributable to a refund in
192 the event of a beneficiary's death, disability, or receipt of a scholarship.

193 21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the
194 extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted
195 under this section, earned by military personnel while serving by order of the President of the United
196 States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated
197 as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

198 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or
199 exchange of real property or the sale or exchange of an easement to real property which results in the
200 real property or the easement thereto being devoted to open-space use, as that term is defined in
201 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in
202 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
203 shall be allowed for three years following the year in which the subtraction is taken.

204 23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic
205 pay for military service personnel on extended active duty for periods in excess of 90 days; however,
206 the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military
207 basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or
208 exceeds \$30,000.

209 24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary
210 for each federal and state employee whose total annual salary from all employment for the taxable year
211 is \$15,000 or less.

212 25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

213 26. For taxable years beginning on and after January 1, 2001, any amount received as military
214 retirement income by an individual awarded the Congressional Medal of Honor.

215 27. Effective for all taxable years beginning on and after January 1, 1999, income received as a
216 result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco
217 Grower Settlement Trust dated July 19, 1999, by (a) tobacco farmers; (b) any person holding a tobacco
218 marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or
219 (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the
220 extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

221 28. For taxable years beginning on and after January 1, 2000, items of income attributable to,
222 derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an
223 individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other
224 consideration received by a victim or target of Nazi persecution to compensate such individual for
225 performing labor against his will under the threat of death, during World War II and its prelude and
226 direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with
227 the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II
228 and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this
229 subdivision shall only apply to an individual who was the first recipient of such items of income and
230 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of
231 such victim.

232 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
233 the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or
234 omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct
235 aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi
236 persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during
237 World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include
238 any individual forced into labor against his will, under the threat of death, during World War II and its
239 prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi
240 Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any
241 other neutral European country or area in Europe under the influence or threat of Nazi invasion.

242 29, 30. [Repealed.]

243 31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity
244 payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line

of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments from an annuity contract that are received by a beneficiary of such contract provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

33. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

34. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

35. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2015. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

36. *For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.*

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability, (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

D. In computing Virginia taxable income there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has not itemized deductions for the taxable year on his

306 federal income tax return. For purposes of this section, any person who may be claimed as a dependent
307 on another taxpayer's return for the taxable year may compute the deduction only with respect to earned
308 income.

309 2. a. A deduction in the amount of \$900 for taxable years beginning on and after January 1, 2005,
310 but before January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each
311 personal exemption allowable to the taxpayer for federal income tax purposes.

312 b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined
313 under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the
314 amount of \$800.

315 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be
316 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income
317 tax purposes.

318 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is
319 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
320 necessary for gainful employment.

321 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under
322 permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child
323 as a personal exemption under § 151 of the Internal Revenue Code.

324 5. a. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000
325 for individuals born on or before January 1, 1939.

326 b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000
327 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be
328 reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000
329 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the
330 deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income
331 of both spouses exceeds \$75,000.

332 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted
333 gross income minus any benefits received under Title II of the Social Security Act and other benefits
334 subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

335 6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee
336 for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed
337 for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal
338 income tax return.

339 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
340 during the taxable year for a prepaid tuition contract or savings trust account entered into with the
341 Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as
342 provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable
343 year shall be limited to \$4,000 per prepaid tuition contract or savings trust account. No deduction shall
344 be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or
345 contributor's federal income tax return. If the purchase price or annual contribution to a savings trust
346 account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years
347 until the purchase price or savings trust contribution has been fully deducted; however, except as
348 provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$4,000
349 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained
350 in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in
351 which distributions or refunds are made for any reason other than (i) to pay qualified higher education
352 expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or
353 receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor"
354 means the person shown as such on the records of the Virginia College Savings Plan as of December 31
355 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust
356 account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition
357 contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

358 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January
359 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,
360 1998, and shall be subject to the limitations set out in subdivision 7 a.

361 c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained
362 age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
363 prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a
364 deduction for the full amount paid for the contract or contributed to a savings trust account, less any
365 amounts previously deducted.

366 8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually
367 contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in

Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on or after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on or after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. For taxable years beginning on and after January 1, 2006, contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. For taxable years beginning on or after January 1, 2007, the lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on or after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. "Earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code of 1954, as amended or renumbered. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

429 G. Effective for all taxable years beginning on or after January 1, 2007, to the extent included in
430 federal adjusted gross income, there shall be (i) subtracted from federal adjusted gross income by a
431 shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise
432 tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year
433 begins, the shareholder's allocable share of the income or gain of such electing small business
434 corporation (S corporation), and (ii) added back to federal adjusted gross income such that, federal
435 adjusted gross income shall be increased, by a shareholder of an electing small business corporation (S
436 corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for
437 the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or
438 deductions of such electing small business corporation (S corporation).

439 Effective for all taxable years beginning on or after January 1, 2007, to the extent excluded from
440 federal adjusted gross income, there shall be added to federal adjusted gross income by a shareholder of
441 an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed
442 under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the
443 value of any distribution paid or distributed to the shareholder by such electing small business
444 corporation (S corporation).

445 H. Notwithstanding any other provision of law, the income from any disposition of real property
446 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or
447 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after
448 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method
449 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer
450 disposition of the property has been made on or before the due date prescribed by law (including
451 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in
452 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or
453 conditions established by the Department, which shall be set forth in guidelines developed by the
454 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of
455 such income under certain circumstances. The development of the guidelines shall be exempt from the
456 Administrative Process Act (§ 2.2-4000 et seq.).