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SENATE BILL NO. 62

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance)

(Patron Prior to Substitute—Senator Puller)

Senate Amendments in [ ] — February 7, 2014

A BILL to amend and reenact § 58.1-339.7 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-139.01, relating to grants for purchasing new residences or making real property improvements that are designed to improve accessibility or universal visitability.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-339.7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-139.01 as follows:

§ 36-139.01. Grants for residences designed to improve accessibility or universal visitability; establishment of the Residential Improved Accessibility and Universal Visitability Grant Fund.

A. In addition to all other duties and responsibilities, the Director shall administer a program to provide grants to persons purchasing a new residence or expending moneys to retrofit an existing residence designed to improve accessibility or to provide universal visitability.

B. 1. The Director may approve up to $1 million in grants each fiscal year beginning with the 2015-2016 fiscal year for a portion of the total purchase price paid by a person for a new residential structure or unit in the Commonwealth or the total amount expended by the person to retrofit an existing residential structure or unit in the Commonwealth, provided that the new structure or unit or the retrofitting of the existing structure or unit is designed to improve accessibility, to provide universal visitability, and meets the eligibility requirements for the grant program established by guidelines developed by the Department. The grant shall not exceed (i) $5,000 for the purchase of each new residence or the construction of each new residential structure or unit or (ii) 50 percent of the total amount expended, but not to exceed $5,000, for the retrofitting or renovation of each existing residence or residential structure or unit.

2. Grants shall not be paid under this section:

[~~*a. To a licensed contractor, as defined in § 54.1-1100, unless the contactor uses the residence or structure as his personal residence;*~~]

[~~*b.*~~ *a.*] *For the purchase, construction, retrofitting, or renovation of residential rental property;*

[~~*c.*~~ *b.*] *For transactions or dealings between affiliated entities;*

[~~*d.*~~ *c.*] *More than once to the same person or to different persons relating to the same retrofitting, renovation, or construction project; or*

[~~*e.*~~ *d.*] *In any case in which the Department issued a tax credit under § 58.1-339.7 relating to the same retrofitting, renovation, or construction project.*

C. Persons seeking a grant shall file an application with the Department. In each year, the Department shall allocate $500,000 in grants for the purchase or construction of new residences and $500,000 in grants for the retrofitting or renovation of existing residences or residential structures or units. If the amount of grants approved in a fiscal year for the purchase or construction of new residences is less than $500,000, the Director shall allocate the remaining balance of grants for the retrofitting or renovation of existing residences or residential structures or units. If the amount of grants approved in a fiscal year for the retrofitting or renovation of existing residences or residential structures or units is less than $500,000, the Director shall allocate the remaining balance of such grants for the purchase or construction of new residences.

D. Any person applying for a grant under this section shall provide evidence, satisfactory to the Director, of the amount expended or paid by the person with regard to the purchase or construction of a new residential structure or unit or the retrofitting or renovation of an existing residential structure or unit designed to improve accessibility and provide universal visitability.

E. The Director shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section. Payment of the grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification.

F. The Comptroller shall not draw any warrants to issue checks for this grant program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the general appropriation act.

G. Grants shall be paid from the Residential Improved Accessibility and Universal Visitability Grant Fund established under subsection H.

H. There is hereby created in the state treasury a special nonreverting fund to be known as the Residential Improved Accessibility and Universal Visitability Grant Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of such *moneys as may be appropriated to it by the General Assembly. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing grants as described under this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.*

I. The Director shall develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-339.7. Livable Home Tax Credit.

A. For taxable years beginning on and after January 1, 2000, any taxpayer who purchases a new residence or retrofits or hires someone to retrofit an existing residence, provided that such new residence or the retrofitting of such existing residence is designed to improve accessibility, provide universal visitability, and meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development, shall be allowed a credit against the tax imposed pursuant to § 58.1-320 of an amount equal to $500, or $2,000 for taxable years beginning on or after January 1, 2010, for such new residence or 25 percent of the total amount spent for the retrofitting of such existing residence. For taxable years beginning on or after January 1, 2010, the 25 percent shall increase to 50 percent. The amount of the credit allowed for the retrofitting of an existing residence shall not exceed $500, or $2,000 for taxable years beginning on or after January 1, 2010. Such a credit shall require application by the taxpayer as provided in subsection C. For purposes of this section, the purchase of a new residence means a transaction involving the first sale of a residence or dwelling. The provisions of this subsection shall not be applicable for taxable years beginning on or after January 1, 2011.

B. *1.* For taxable years beginning on or after January 1, 2011, an individual shall be allowed a credit against the tax imposed by § 58.1-320 for a portion of the total purchase price paid by him for a new residence or the total amount expended by him to retrofit an existing residence, provided that the new residence or the retrofitting of the existing residence is designed to improve accessibility, to provide universal visitability, and it meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. In addition, a licensed contractor, as defined in § 54.1-1100, shall be allowed a credit against the tax imposed by § 58.1-320 or 58.1-400 for a portion of the total amount it expended in constructing a new residential structure or unit or retrofitting or renovating an existing residential structure or unit, provided that the new residential structure or unit or the retrofitting or renovating of the existing residential structure or unit is designed to improve accessibility, to provide universal visitability, and it meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development.

[~~*For taxable years beginning on or after January 1, 2015, credit under this section shall be allowed only to licensed contractors, as defined in § 54.1-1100, that (i) construct such new residential structures or units or make such retrofitting or renovation to existing residential structures or units, provided that the contractor does not use the residential structure or unit as his personal residence, and (ii) otherwise meet the requirements under this section. All other persons purchasing or constructing a new residence or expending moneys to retrofit an existing residence designed to improve accessibility or to provide universal visitability shall be ineligible for any tax credit, but shall be eligible for a grant as provided under § 36-139.01.*~~]

2. The credit shall be allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed. The credit allowed under this section shall not exceed (i) $5,000 for the purchase of each new residence or the construction of each new residential structure or unit or (ii) 50 percent of the total amount expended, but not to exceed $5,000, for the retrofitting or renovation of each existing residence or residential structure or unit.

3. No credit shall be allowed under this section *(i)* for the purchase, construction, retrofitting, or renovation of residential rental property*, or (ii) relating to a residence located outside the Commonwealth*.

C. Eligible taxpayers shall apply for the credit by making application to the Department of Housing and Community Development. The Department of Housing and Community Development shall issue a certification for an approved application to the taxpayer. The taxpayer shall attach the certification to the applicable income tax return. The total amount of tax credits granted under this section for any fiscal year shall not exceed $1 million. In each year, the Department of Housing and Community Development shall allocate $500,000 in tax credits for the purchase or construction of new residences and $500,000 in tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the purchase or construction of new residences is less than $500,000, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the retrofitting or renovation of existing residences or residential structures or units is less than $500,000, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the purchase or construction of new residences. In the event applications for the tax credit exceed the amount allocated by the Director for the fiscal year, the Department of Housing and Community Development shall issue the tax credits pro rata based upon the amount of tax credit approved for each taxpayer and the amount of tax credits allocated by the Director.

In no case shall the Director issue any tax credit relating to transactions or dealings between affiliated entities. In no case shall the Director issue any tax credit more than once to the same or different persons relating to the same retrofitting, renovation, or construction project.

D. In no case shall the amount of credit taken by a taxpayer pursuant to this section exceed the taxpayer's income tax liability for the taxable year. If the amount of credit allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed exceeds the taxpayer's income tax liability imposed for such taxable year, then the amount that exceeds the tax liability may be carried over for credit against the income taxes of such taxpayer in the next seven taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.