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SENATE BILL NO. 1449

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 2, 2015)

(Patron Prior to Substitute—Senator Saslaw)

A BILL to amend and reenact §§ 36-137 and 36-139 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-115.1 and by adding in Title 36 a chapter numbered 12, consisting of sections numbered 36-171 and 36-172, relating to the Multifamily Property Energy Efficiency Act; Governor's Powering Economic Growth Program.

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-137 and 36-139 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-115.1 and by adding in Title 36 a chapter numbered 12, consisting of sections numbered 36-171 and 36-172, as follows:

§ 2.2-115.1. Governor's Powering Economic Growth Program.

A. As used in this section, unless the context requires otherwise:

"Credit" means a subsidy provided by the Governor to a qualified economic development project to lower the cost of power paid to a participating utility.

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. "New job" may include positions with contractors, provided that all other requirements for a new job are met. "New job" does not include seasonal or temporary positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, or multiplier or spin-off jobs.

"Participating utility" means an investor-owned utility providing service in the Commonwealth that agrees to provide the Governor with a set number of credits to be used as an incentive for qualified economic development projects.

"Prevailing average wage" means the amount determined by the Virginia Employment Commission to be the average wage paid to workers in the county or city of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this section.

"Program" means the Governor's Powering Economic Growth Program.

"Qualified economic development project" means an economic development project that meets a set of minimum criteria for the potential awarding of credits. "Qualified economic development projects" may include businesses considering doing business in the Commonwealth, existing businesses currently doing business in the Commonwealth that are considering expansion, and existing businesses currently doing business in the Commonwealth that are considering moving operations outside of the Commonwealth.

B. There is created the Governor's Powering Economic Growth Program to be used by the Governor to attract economic development projects, secure the expansion of existing businesses in the Commonwealth, and retain existing businesses in the Commonwealth. The Program shall consist of an allocation of credits provided by a participating utility for the purposes of lowering the cost of energy for a qualified economic development project.

C. The Virginia Economic Development Partnership shall develop a framework consisting of minimum criteria for determining what constitutes a qualified economic development project and for awarding credits to a qualified economic development project. The criteria for determining a qualified economic development project and awarding such credits shall include (i) job creation or retention, (ii) private capital investment, (iii) estimated amount of power consumed annually, and (iv) anticipated additional or retained state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created or retained. Credit allocations shall be approved by the Governor and made in accordance with guidelines established by the Virginia Economic Development Partnership. The Virginia Economic Development Partnership shall be responsible for monitoring the meeting of criteria by the qualified economic development project.

D. The Program may receive and accept from any federal, state, or private agency, foundation, corporation, association, or person gifts, bequests, grants, or donations to fulfill the purposes of the Program. Of all moneys received and accepted by the Program, at least 20 percent shall be allocated to the Department of Housing and Community Development for the purposes of administering the

60 *Multifamily Property Energy Efficiency Act (§ 36-171 et seq.).*

61 *E. It shall be the policy of the Commonwealth that credits shall not be used for any economic*
62 *development project in which a business relocates or expands its operations in one or more Virginia*
63 *localities and simultaneously closes its operations or substantially reduces the number of its employees*
64 *in another Virginia locality. The Secretary of Commerce and Trade shall enforce this policy and for any*
65 *exception thereto shall promptly provide written notice to the Chairmen of the Senate Committee on*
66 *Finance and the House Committee on Appropriations, which notice shall include a justification for any*
67 *exception to such policy.*

68 *F. The Virginia Economic Development Partnership shall assist the Governor in developing objective*
69 *guidelines and criteria that shall be used in awarding credits from the Program. The guidelines may*
70 *require that as a condition of receiving any credit that is based on employment goals, a recipient*
71 *company must provide copies of employer quarterly payroll reports that have been provided to the*
72 *Virginia Employment Commission to verify the employment status of any position included in the*
73 *employment goal. The guidelines and criteria shall include provisions for a cap on the amount of credits*
74 *to be provided to any individual project. At the discretion of the Governor, this cap may be waived for*
75 *qualifying projects of regional or statewide interest.*

76 *G. The Governor shall provide credits and commitments from the Program not to exceed the total*
77 *number of credits available for the Program.*

78 *H. The preparation of the guidelines for the Program shall be exempt from the requirements of*
79 *Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Actions of the Virginia Economic*
80 *Development Partnership relating to the allocation and awarding of credits shall be exempt from the*
81 *provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of*
82 *§ 2.2-4002.*

83 **§ 36-137. Powers and duties of Board; appointment of Building Code Academy Advisory**
84 **Committee.**

85 The Board shall exercise the following powers and duties, and such others as may be provided by
86 law:

87 1. Provide a means of citizen access to the Department.

88 2. Provide a means of publicizing the policies and programs of the Department in order to educate
89 the public and elicit public support for Department activities.

90 3. Monitor the policies and activities of the Department and have the right of access to departmental
91 information.

92 4. Advise the Governor and the Director on matters relating to housing and community development.

93 5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or
94 amend such rules when necessary.

95 6. Issue a certificate of competence concerning the content, application, and intent of specified
96 subject areas of the building and fire prevention regulations promulgated by the Board to present or
97 prospective personnel of local governments and to any other persons seeking to become qualified to
98 perform inspections pursuant to Chapter 6 (§ 36-97 et seq.), Chapter 9 (§ 27-94 et seq.) of Title 27, and
99 any regulations adopted thereunder, who have completed training programs or in other ways
100 demonstrated adequate knowledge.

101 7. Levy by regulation up to two percent of permit fees authorized pursuant to §§ 36-98.3 and 36-105
102 to support training programs of the Building Code Academy established pursuant to § 36-139. Local
103 building departments shall collect such levy and transmit it quarterly to the Department of Housing and
104 Community Development. Localities that maintain, individual or regional, training academies accredited
105 by the Department of Housing and Community Development shall retain such levy. However, such
106 localities may send employees to training programs of the Building Code Academy upon payment of a
107 fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year
108 for the continued operation of the Building Code Academy.

109 The Board shall appoint a Building Code Academy Advisory Committee (the Committee) comprised
110 of representatives of code enforcement personnel and construction industry professions affected by the
111 provisions of the building and fire prevention regulations promulgated by the Board. Members of the
112 Committee shall receive no compensation but shall be entitled to be reimbursed for all reasonable and
113 necessary expenses incurred in the performance of their duties in accordance with § 2.2-2813. The
114 Committee shall advise the Board and the Director on policies, procedures, operations, and other matters
115 pertinent to enhancing the delivery of training services provided by the Building Code Academy.

116 8. Establish general policies, procedures, and programs for the Virginia Housing Trust Fund
117 established in Chapter 9 (§ 36-141 et seq.).

118 9. Determine the categories of housing programs, housing sponsors and persons and families of low
119 and moderate income eligible to participate in grant or loan programs of the Virginia Housing Trust
120 Fund and designate the proportion of such grants or loans to be made available in each category.

121 10. Advise the Director of the Department on the program guidelines required to accomplish the

122 policies and procedures of the Virginia Housing Trust Fund.

123 11. Advise the Virginia Housing Development Authority and the Director of the Department on
124 matters relating to the administration and management of loans and grants from the Virginia Housing
125 Trust Fund.

126 12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying
127 for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia
128 income tax return.

129 13. Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.

130 14. Advise the Department in the development of the Consolidated Plan Strategy to guide and
131 coordinate the housing programs of the Department, the Virginia Housing Development Authority, and
132 other state agencies and instrumentalities.

133 15. Advise the Governor and the Department on the expansion of affordable, accessible housing for
134 older Virginians and Virginians with disabilities, including supportive services.

135 16. Establish guidelines for the allocation of private activity bonds to local housing authorities in
136 accordance with the provisions of the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et
137 seq.) of Title 15.2.

138 17. *Establish program guidelines for the administration of multifamily property energy efficiency*
139 *grants made from the Governor's Powering Economic Growth Program established by § 2.2-115.1.*

140 **§ 36-139. Powers and duties of Director.**

141 The Director of the Department of Housing and Community Development shall have the following
142 responsibilities:

143 1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their
144 planning and development activities, boundary changes, changes of forms and status of government,
145 intergovernmental agreements and arrangements, and such other information as he may deem necessary.

146 2. Making information available to communities, planning district commissions, service districts and
147 governmental subdivisions of the Commonwealth.

148 3. Providing professional and technical assistance to, and cooperating with, any planning agency,
149 planning district commission, service district, and governmental subdivision engaged in the preparation
150 of development plans and programs, service district plans, or consolidation agreements.

151 4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the
152 General Assembly in accordance with § 15.2-4216.

153 5. Administering federal grant assistance programs, including funds from the Appalachian Regional
154 Commission, the Economic Development Administration and other such federal agencies, directed at
155 promoting the development of the Commonwealth's communities and regions.

156 6. Developing state community development policies, goals, plans and programs for the consideration
157 and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the
158 General Assembly.

159 7. Developing a Consolidated Plan to guide the development and implementation of housing
160 programs and community development in the Commonwealth for the purpose of meeting the housing
161 and community development needs of the Commonwealth and, in particular, those of low-income and
162 moderate-income persons, families and communities.

163 8. Determining present and future housing requirements of the Commonwealth on an annual basis
164 and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to
165 ensure the availability of housing where and when needed.

166 9. Assuming administrative coordination of the various state housing programs and cooperating with
167 the various state agencies in their programs as they relate to housing.

168 10. Establishing public information and educational programs relating to housing; devising and
169 administering programs to inform all citizens about housing and housing-related programs that are
170 available on all levels of government; designing and administering educational programs to prepare
171 families for home ownership and counseling them during their first years as homeowners; and promoting
172 educational programs to assist sponsors in the development of low and moderate income housing as well
173 as programs to lessen the problems of rental housing management.

174 11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

175 12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

176 13. Establishing and operating a Building Code Academy for the training of persons in the content,
177 application, and intent of specified subject areas of the building and fire prevention regulations
178 promulgated by the Board of Housing and Community Development.

179 14. Administering, in conjunction with the federal government, and promulgating any necessary
180 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

181 15. Identifying and disseminating information to local governments about the availability and
182 utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Advising the Board on matters relating to policies for the low-income housing credit and administering the approval of low-income housing credits as provided in § 36-55.63.

21. Establishing and administering program guidelines for a statewide homeless intervention program.

22. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

23. *Administering allocations from the Governor's Powering Economic Growth Program established by § 2.2-115.1 that are made for the purpose of enhancing the energy efficiency of multifamily residential properties through the award of grants that provide for energy efficiency enhancement made in accordance with guidelines established by the Board.*

24. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

25. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

26. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

27. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

28. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

CHAPTER 12.

MULTIFAMILY PROPERTY ENERGY EFFICIENCY ACT.

§ 36-171. Definitions.

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

"Department" means the Department of Housing and Community Development.

"Multifamily property" means any building, structure, or portion thereof, consisting of five or more units intended for residential occupancy.

"Program" means the Governor's Powering Economic Growth Program established by § 2.2-115.1.

§ 36-172. Administration.

The Department shall administer this chapter and shall have the power and duty to:

1. Receive such moneys as may be allocated from the Program for the purpose of providing grants to enhance the energy efficiency of existing, affordable multifamily rental properties within the Commonwealth;

2. Establish the process for determining the eligibility of multifamily properties for energy efficiency grants. Program criteria shall include but not be limited to consideration of the current energy usage by multifamily residential properties, the level of energy efficiency improvements proposed by applicants, and the relative costs and benefits of alternative means for achieving increased energy efficiency and the extent to which such proposed energy efficiency improvements sustain and enhance the continued affordability of such properties;

3. Monitor the implementation and operation of this chapter;

4. Evaluate and report on the results of investments in increased energy efficiency for multifamily residential properties;

5. Administer and enforce program guidelines established by the Board of Housing and Community Development; and

245 6. Disburse from the Program funds to cover the reasonable costs and expenses incurred by the
246 Department in administering and managing the Program.