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HOUSE BILL NO. 493

Offered January 13, 2016

Prefiled January 8, 2016

A *BILL to amend the Code of Virginia by adding in Chapter 8 of Title 58.1 a section numbered 58.1-818 and by adding in Title 62.1 a chapter numbered 23.3, consisting of sections numbered 62.1-241.13 through 62.1-241.16, relating to loans to localities and other entities to fund energy efficiency projects.*

Patrons—Sullivan, Plum and Simon; Senator: Howell

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 58.1 a section numbered 58.1-818 and by adding in Title 62.1 a chapter numbered 23.3, consisting of sections numbered 62.1-241.13 through 62.1-241.16, as follows:

§ 58.1-818. Deposit of certain recordation tax revenues to the Virginia Energy Efficiency Revolving Fund.

No later than September 1 of each fiscal year immediately following a fiscal year in which the total revenue generated by the state taxes imposed pursuant to this chapter except §§ 58.1-802.2 and 58.1-817 that was deposited into the state treasury exceeded \$325 million, there shall be transferred to the Virginia Energy Efficiency Revolving Fund established in § 62.1-241.14 an amount equal to 40 percent of the excess revenue.

CHAPTER 23.3.**VIRGINIA ENERGY EFFICIENCY REVOLVING FUND.****§ 62.1-241.13. Definitions.**

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.).

"Board " means the Board of Directors of the Authority.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Fund" means the Virginia Energy Efficiency Revolving Fund created by this chapter.

"Local government" means any county, city, town, or public school division, or any combination of any two or more of the foregoing.

"Other entities" means public institutions of higher education.

"Project" means any energy conservation measure and facility technology infrastructure as defined in § 11-34.2 and any other energy objective as defined in § 67-101 for existing or new buildings, or modification or acquisition of energy-efficient motor vehicles, where the total projected energy efficiency savings over the life of the project exceed its cost. If an energy efficiency improvement is part of a larger renovation, construction, upgrade, or other similar measure, then the project, for purposes of determining such costs and savings, and for obtaining any loan from the Fund, shall be limited to the energy efficiency improvements and necessary changes to implement them.

§ 62.1-241.14. Virginia Energy Efficiency Revolving Fund.

There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Energy Efficiency Revolving Fund, sums appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments or other entities, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter with the goal of promoting, to the extent possible, cost-effective energy efficiency improvements by eligible borrowers.

§ 62.1-241.15. Deposit of money; expenditures; investments.

All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to

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59 give security for the deposits. Money in the Fund shall not be commingled with other money of the
60 Authority. Money in the Fund not needed for immediate use or disbursement may be invested or
61 reinvested by the Authority in obligations or securities that are considered lawful investments for public
62 funds under the laws of the Commonwealth.

63 **§ 62.1-241.16. Loans to local governments and other entities.**

64 A. Except as otherwise provided in this chapter, money in the Fund shall be used solely to make
65 interest-free loans to local governments or other entities to finance or refinance all or part of the cost
66 of any project. The local governments or other entities to which loans are to be made, the purposes of
67 the loan, the amount of each such loan, and the repayment terms thereof, which may vary between loan
68 recipients, shall be designated in writing by the Board to the Authority following consultation with the
69 Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the
70 outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

71 The Authority shall give priority to projects that (i) most rapidly recoup costs through energy
72 efficiency savings or (ii) have the greatest long-term savings provided that the Authority may set
73 minimum project sizes.

74 Annual payments by a local government or other entity shall be an amount that approximates 75
75 percent of the annual estimated energy-related savings attributable to the project, unless a higher
76 percentage is needed to achieve repayment in the permitted time. Unless otherwise agreed to by the
77 Authority and a local government or other entity, the term of the loan shall be the lesser of 10 years or
78 80 percent of the life of the project.

79 B. Except as set forth in subsection A, the Authority shall determine the terms and conditions of any
80 loan from the Fund, which may vary between loan recipients. Each loan shall be evidenced by
81 appropriate bonds or notes of the local government or other entity payable to the Fund. The bonds or
82 notes shall have been duly authorized by the local government or other entity and executed by its
83 authorized legal representatives. The Authority is authorized to require in connection with any loan from
84 the Fund such documents, instruments, certificates, legal opinions, and other information as it may deem
85 necessary or convenient.

86 The Authority may perform other acts, including the conveyance of, or the granting of liens on or
87 security interests in, real and personal property, together with all rights, title, and interest therein, to
88 the Fund, or take other actions as may be deemed necessary or desirable by the Authority to secure
89 payment of the principal on the loan from the Fund and to provide for the remedies of the Fund in the
90 event of any default in the payment of the loan.

91 C. All local governments or other entities borrowing money from the Fund are authorized to perform
92 any acts, take any action, adopt any proceedings, and make and carry out any contracts that are
93 contemplated by this chapter. Such contracts need not be identical among all local governments or
94 other entities but may be structured as determined by the Authority according to the needs of the
95 contracting local governments or other entities and the Fund.

96 D. Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the
97 Authority may consent to and approve any modification in the terms of any loan subject to any
98 guidelines that may be adopted by the Board.