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HOUSE BILL NO. 1542

Offered January 12, 2011

Prefiled January 3, 2011

A BILL to amend the Code of Virginia by adding sections numbered 58.1-331.1 and 58.1-431.1, relating to renewable energy property and energy audit tax credits.

Patrons—Kory, Surovell and Herring

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 58.1-331.1 and 58.1-431.1 as follows:

§ 58.1-331.1. Renewable energy property and energy audit tax credits.

A. For the purposes of this section:

"Department" means the Virginia Department of Mines, Minerals and Energy.

"Geothermal system" means energy generating units, sometimes referred to as earth-coupled, ground-source, or water-source heat pumps, that use the constant temperature of the earth as the exchange medium, instead of the outside air temperature, by exchanging heat with the earth through a ground heat exchanger in order to heat, cool, and if equipped, supply the building with hot water.

"Qualified residential energy audit" means an energy audit performed on the taxpayer's primary residence that assesses how much energy a building or operation consumes and evaluates what measures can be taken to make the residence more energy efficient. The audit must be performed by an analyst certified by the Building Performance Institute (BPI) or Residential Energy Services Network (RESNET) and documented with a dated copy of the auditor's report identifying the taxpayer's property and auditor's certification number.

"Renewable energy property" means a solar photovoltaic system, a solar thermal system, or a geothermal system.

"Solar photovoltaic system" means an energy system or solar panel that collects or absorbs sunlight for conversion into electricity and that has been certified as meeting all applicable safety standards of Underwriters Laboratories. Systems that are interconnected with the utility grid shall comply with performance and safety standards established by the State Corporation Commission in accordance with § 56-594.

"Solar thermal system" means a solar energy system that collects or absorbs solar energy to generate hot water or air for space heating or water heating. Solar water heating systems shall meet the operational guidelines for an OG-300 certified solar water heating system as established by the Solar Rating and Certification Corporation. Solar space heating panels that heat air shall meet the operational guidelines for an OG-100 certified solar panel.

B. For taxable years beginning on or after January 1, 2012, any individual shall be allowed a credit against the tax imposed by § 58.1-320 for qualifying renewable energy property placed in service during the taxable year.

The amount of such credit shall not exceed:

1. \$1.25/watt for the first 2,000 watts; \$0.75/watt for 2,001 through 8,000 watts; and \$0.25/watt for 8,001 through 20,000 watts for a solar photovoltaic system, not to exceed \$10,500 per system or the total cost of the system, whichever is less;

2. Ten percent of the installed cost of a geothermal system, not to exceed \$3,000 per system or the total cost of the system, whichever is less; or

3. \$2,000 per system for a solar thermal system or the total cost of the system, whichever is less.

C. In addition to the credit provided in subsection B, for taxable years beginning on or after January 1, 2012, any individual shall be allowed a credit against the tax imposed by § 58.1-320 for a qualified residential energy audit equal to 50 percent of the cost of such audit, not to exceed \$250. The taxpayer shall be allowed only one credit for a qualified residential energy audit during any five-year period. Such credit shall be in lieu of the \$250 rebate offered by the Department for the same type of audit.

D. An individual seeking to claim any tax credit provided for under this section shall submit an application to the Department for approval of such tax credit. The Department shall establish the guidelines and forms on which the application is to be submitted. The Department shall within 14 days review such application and shall approve such application upon determining that it meets all guidelines. Actions by the Department relating to the allocation and awarding of credits under this section shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B

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59 4 of § 2.2-4002.

60 E. The taxpayer shall submit with his income tax return all documentation as required by the
61 Department of Taxation. Any credit not usable for the taxable year may be carried over for the next
62 three taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax
63 imposed for such taxable year.

64 § 58.1-431.1. Renewable energy property and energy audit tax credits.

65 A. For the purposes of this section:

66 "Department" means the Virginia Department of Mines, Minerals and Energy.

67 "Geothermal system" means energy generating units, sometimes referred to as earth-coupled,
68 ground-source, or water-source heat pumps, that use the constant temperature of the earth as the
69 exchange medium, instead of the outside air temperature, by exchanging heat with the earth through a
70 ground heat exchanger in order to heat, cool, and if equipped, supply the building with hot water.

71 "Qualified commercial property energy audit" means an energy audit performed on the taxpayer's
72 commercial property that assesses how much energy a building or operation consumes and evaluates
73 what measures can be taken to make the commercial property more energy efficient. The audit must be
74 performed by an analyst certified by the Building Performance Institute (BPI) or other analyst approved
75 by the Department and documented with a dated copy of the auditor's report identifying the taxpayer's
76 property and auditor's certification number.

77 "Renewable energy property" means a solar photovoltaic system, a solar thermal system, or a
78 geothermal system.

79 "Solar photovoltaic system" means an energy system or solar panel that collects or absorbs sunlight
80 for conversion into electricity and that has been certified as meeting all applicable safety standards of
81 Underwriters Laboratories. Systems that are interconnected with the utility grid shall comply with
82 performance and safety standards established by the State Corporation Commission in accordance with
83 § 56-594.

84 "Solar thermal system" means a solar energy system that collects or absorbs solar energy to
85 generate hot water or air for space heating or water heating. Solar water heating systems shall meet the
86 operational guidelines for an OG-300 certified solar water heating system as established by the Solar
87 Rating and Certification Corporation. Solar space heating panels that heat air shall meet the
88 operational guidelines for an OG-100 certified solar panel.

89 B. For taxable years beginning on or after January 1, 2012, any corporation shall be allowed a
90 credit against the tax imposed by § 58.1-400 for qualifying renewable energy property placed in service
91 during the taxable year.

92 The amount of such credit shall not exceed:

93 1. \$1.25/watt for the first 2,000 watts; \$0.75/watt for 2,001 through 8,000 watts; and \$0.25/watt for
94 8,001 through 20,000 watts for a solar photovoltaic system, not to exceed \$2.5 million per system or the
95 total cost of the system, whichever is less;

96 2. Ten percent of the installed cost for a geothermal system, not to exceed \$10,000 per system or the
97 total cost of the system, whichever is less; or

98 3. Twenty-five percent of the installed cost for a solar thermal system, not to exceed \$10,000 per
99 system or the total cost of the system, whichever is less.

100 C. In addition to the credit provided in subsection B, for taxable years beginning on or after January
101 1, 2012, any corporation shall be allowed a credit against the tax imposed by § 58.1-400 for a qualified
102 commercial property energy audit equal to 50 percent of the cost of such audit, not to exceed \$500. The
103 taxpayer shall be allowed only one credit for a qualified commercial property energy audit during any
104 five-year period.

105 D. A corporation seeking to claim any tax credit provided for under this section shall submit an
106 application to the Department for approval of such tax credit. The Department shall establish the
107 guidelines and forms on which the application is to be submitted. The Department shall within 14 days
108 review such application and shall certify that the taxpayer has satisfied the requirements of this section
109 for the tax year in which the credit is allowed. Actions by the Department relating to the allocation and
110 awarding of credits under this section shall be exempt from the provisions of the Administrative Process
111 Act pursuant to subdivision B 4 of § 2.2-4002.

112 E. The taxpayer shall submit with its income tax return all documentation as required by the
113 Department of Taxation. Any credit not usable for the taxable year may be carried over to the next
114 three taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax
115 imposed for such taxable year.

116 F. For purposes of this section, the amount of any credit attributable to a partnership, electing small
117 business corporation (S corporation), or limited liability company shall be allocated to the partners,
118 shareholders, or members, respectively, in proportion to their ownership or interest in such business
119 entity.