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HOUSE BILL NO. 2741

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 31, 2019)

(Patron Prior to Substitute—Delegate Aird)

A BILL to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-400, relating to Clean Energy Advisory Board; fund; solar installation loan or rebate; report; sunset.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-400, as follows:

CHAPTER 27.**CLEAN ENERGY ADVISORY BOARD.****§ 45.1-395. Clean Energy Advisory Board; purpose.**

The Clean Energy Advisory Board (the Board) is established as an advisory board in the executive branch of state government. The purpose of the Board is to establish a pilot program for disbursing loans or rebates for the installation of solar energy infrastructure in low-income and moderate-income households.

§ 45.1-396. Membership; terms; quorum; meetings.

The Board shall have a total membership of 15 members that shall consist of 14 nonlegislative citizen members and one ex officio member. Nonlegislative citizen members shall be appointed as follows:

1. Four nonlegislative citizen members to be appointed by the Speaker of the House of Delegates upon consideration of the recommendations of the Board of Directors of the Maryland-DC-Delaware-Virginia Solar Energy Industries Association (the MDV-SEIA Board) and the Governor's Advisory Council on Environmental Justice (the Council), one of whom shall be a designee of the Virginia Housing Development Authority, created pursuant to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36; one of whom shall be a rooftop solar energy professional or employer or representative of rooftop solar energy professionals; one of whom shall be a current or former member of the Council; and one of whom shall be a member or representative of the Virginia, Maryland and Delaware Association of Electric Cooperatives (VMDAEC);

2. Three nonlegislative citizen members to be appointed by the Senate Committee on Rules upon consideration of the recommendations of the MDV-SEIA Board, one of whom shall be a solar energy professional or employer or representative of solar energy professionals, one of whom shall work for or with a Virginia-based investor-owned electric utility company, and one of whom shall be a member or representative of VMDAEC; and

3. Seven nonlegislative citizen members to be appointed by the Governor upon consideration of the recommendations of the MDV-SEIA Board and the Council and subject to confirmation by the General Assembly, one of whom shall be an attorney who is licensed to practice in the Commonwealth and maintains a legal practice in renewable energy law and transactions, one of whom shall be an attorney who is licensed to practice in the Commonwealth and specializes in tax law and energy transactions, one of whom shall be an attorney with the Division of Consumer Counsel created pursuant to the provisions of § 2.2-517, one of whom shall be an employee of a community development financial institution who specializes in impact investing, one of whom shall be a member of a Virginia environmental organization, and two of whom shall be designees of the Department of Housing and Community Development, created pursuant to the provisions of Chapter 8 (§ 36-131 et seq.) of Title 36.

The Director or his designee shall serve ex officio with voting privileges and shall assist in convening the meetings of the Board.

Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. The ex officio member of the Board shall serve a term coincident with his term of office. Nonlegislative citizen members shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

§ 45.1-397. Powers and duties of the Board; report.

The Board shall have the following powers and duties:

1. To advise the Director on the management of the Low-to-Moderate Income Solar Loan and Rebate

60 Fund (the Fund) pursuant to the provisions of § 45.1-398;

61 2. To develop, establish, and operate, with the approval of the Director, a Low-to-Moderate Income
62 Solar Loan and Rebate Pilot Program (the Program) pursuant to the provisions of § 45.1-399;

63 3. To advise the Director on the possibility of working with a community development financial
64 institution or other financial institutions to further the purposes of the Program;

65 4. To advise the Director on the distribution of moneys in the Fund in the form of loans or rebates
66 pursuant to the provisions of § 45.1-399; and

67 5. To submit to the Governor and the General Assembly an annual report for publication as a report
68 document as provided in the procedures of the Division of Legislative Automated Systems for the
69 processing of legislative documents and reports. The chairman shall submit to the Governor and the
70 General Assembly an annual executive summary of the interim activity and work of the Board no later
71 than the first day of each regular session of the General Assembly. The executive summary shall be
72 submitted for publication as a report document as provided in the procedures of the Division of
73 Legislative Automated Systems for the processing of legislative documents and reports and shall be
74 posted on the General Assembly's website.

75 **§ 45.1-398. Low-to-Moderate Income Solar Loan and Rebate Fund.**

76 There is hereby created in the state treasury a special nonreverting fund to be known as the
77 Low-to-Moderate Income Solar Loan and Rebate Fund (the Fund). The Fund shall be established on the
78 books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,
79 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the
80 Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any
81 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert
82 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
83 purposes of extending loans or paying rebates to electric customers who complete solar installations or
84 energy efficiency improvements pursuant to the provisions of § 45.1-399. Expenditures and
85 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
86 Comptroller upon written request signed by the Director.

87 **§ 45.1-399. Low-to-Moderate Income Solar Loan and Rebate Pilot Program.**

88 A. The Board, with the approval of the Director, shall develop and establish a Low-to-Moderate
89 Income Solar Loan and Rebate Pilot Program (the Program) and rules for the loan or rebate
90 application process. The Program shall be open to any Virginia resident whose household income is at
91 or below 80 percent of the state median income or regional median income, whichever is greater. The
92 Program shall allow only one loan per residence, irrespective of the ownership of the solar energy
93 system that is installed. Such loan shall be available only for a solar installation or energy efficiency
94 improvements pursuant to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36.

95 B. The Board shall accept an application only from the installer of the solar installation or the agent
96 of the customer.

97 Each application shall include (i) 12 months of the customer's utility bills prior to installation of the
98 solar energy system and an agreement to provide 12 months of utility bills to the Board following the
99 installation; (ii) the customer's permission for the Director to (a) create a customer profile for the
100 customer if he becomes an eligible loan or rebate customer, (b) aggregate the data provided by such
101 eligible loan or rebate customers, and (c) use such aggregate data for the purpose of lowering energy
102 costs and implementing effective programs; (iii) evidence of the completion of a home performance
103 audit, conducted by a qualified local weatherization service provider, before and after installation of
104 energy efficiency services such as lighting or insulation improvements, attic tents, weatherization, air
105 sealing of openings in the building envelope, sealing of ducts, or thermostat upgrades, to demonstrate
106 that such energy efficiency services were completed and resulted in a reduction in consumption of at
107 least 12 percent; and (iv) an affidavit attesting to the receipt of a public benefit at the time the solar
108 energy system is to be installed.

109 C. The Board shall review each application submitted to it on a first-come, first-served basis and
110 shall recommend to the Director the approval or denial of each such application within 30 days of
111 receipt. If the Director approves an application, he shall hold a reservation of funds for as long as 180
112 days for final loan or rebate claim and disbursement.

113 D. A customer whose application is approved may install an energy system that is interconnected
114 pursuant to the provisions of § 56-594 or any section in Title 56 that addresses net energy metering
115 provisions for electric cooperative service territories.

116 E. All of the work of installing the energy system shall be completed by a licensed contractor that (i)
117 possesses an Alternative Energy System (AES) Contracting specialty as defined by the Board for
118 Contractors pursuant to the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1; (ii) possesses
119 certification for solar installation from the, the North American Board of Certified Energy Practitioners,
120 Solar Energy International, Roof Integrated Solar Energy, or a similar installer certification program;
121 (iii) possesses a rating of "A" or higher from the local Better Business Bureau; and (iv) has installed a

122 minimum of 150 net-metered residential solar systems in Virginia. If the work of installing the solar
123 energy system requires electrical work, it shall be completed by an electrical contractor licensed by the
124 Virginia Department of Professional and Occupational Regulation. All photovoltaic panels, inverters,
125 and other electrical apparatus used in the solar energy system shall be tested and certified by a federal
126 Occupational Safety and Health Administration Nationally Recognized Testing Laboratory such as UL
127 LLC and installed in compliance with manufacturer specifications and all applicable building and
128 electrical codes.

129 F. The customer or the installer, acting on behalf of the customer, shall submit any loan or rebate
130 claim within 90 days of completion of the installation of the solar energy system, with completion
131 deemed to have occurred once the solar energy system's bi-directional meter or net meter, or the
132 respective utility's revenue grade meter, has been installed and the system has been electrified. Each
133 rebate claim shall include, at a minimum, a date of system electrification and a time-stamped and
134 date-stamped verification of (i) bi-directional net meter delivery or (ii) the operation of a compatible
135 programmed smart meter capable of tracking net metering activity.

136 G. The Director shall review and approve or deny a loan or rebate claim within 60 days of receipt
137 and shall provide a written explanation of each denial to the respective claimant. The Director shall
138 disburse from the Low-to-Moderate Income Solar Loan and Rebate Fund created pursuant to § 45.1-398
139 the loan or rebate for each approved claim within 60 days of its receipt of the claim and according to
140 the order in which its respective application was approved. Any rebate or grant shall be in the amount
141 of no more than \$2 per DC watt for up to six kilowatts of solar capacity installed. The customer may
142 use a rebate in addition to any federal tax credits or state incentives or enhancements earned for the
143 same solar installation.

144 **§ 45.1-400. Sunset.**

145 This chapter shall expire on July 1, 2022.