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INTRODUCED

HB397

**HOUSE BILL NO. 397**

Offered January 14, 2026

Prefiled January 12, 2026

*A BILL to amend and reenact §§ 10.1-603.25, 10.1-1330, and 56-596.2:2 of the Code of Virginia, relating to clean energy and community flood preparedness; market-based trading program.*

6 Patron—Herring

7 Committee Referral Pending

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10 Be it enacted by the General Assembly of Virginia:

11 1. That §§ 10.1-603.25, 10.1-1330, and 56-596.2:2 of the Code of Virginia are amended and reenacted as

12 follows:

13 **§ 10.1-603.25. Virginia Community Flood Preparedness Fund; loan and grant program.**

14 A. The Virginia Community Flood Preparedness Fund is hereby established as a permanent and perpetual

15 fund. All sums that are designated for deposit in the Fund from revenue generated by the sale of emissions

16 allowances pursuant to subdivision E B 1 of § 10.1-1330, all sums that may be appropriated to the Fund by

17 the General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments,

18 federally recognized tribes, and Virginia recognized tribes, all income from the investment of moneys held in

19 the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including

20 any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible

21 for deposit in the Fund under federal law, shall be designated for deposit to the Fund. Interest earned on

22 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,

23 including any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal

24 year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this

25 article shall be deemed to promote the public purposes of enhancing flood prevention or protection and

26 coastal resilience.

27 B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection

28 and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish

29 interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum

30 of agreement with the Department. The Authority may disburse from the Fund its reasonable costs and

31 expenses incurred in the management of the Fund. The Department shall direct distribution of loans and

32 grants from the Fund in accordance with the provisions of subsection D.

33 C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the

34 Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held

35 in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as

36 defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the

37 provisions of this article. In addition, the Authority is authorized at any time and from time to time to sell

38 upon such terms and conditions as the Authority deems appropriate any loan or interest thereon made

39 pursuant to this article. The net proceeds of the sale remaining after payment of costs and expenses shall be

40 designated for deposit to, and become part of, the Fund.

41 D. 1. The Fund shall be administered by the Department as prescribed in this article. The Department, in

42 consultation with the Secretary of Natural and Historic Resources and the Chief Resilience Officer of the

43 Commonwealth, shall establish guidelines regarding the distribution and prioritization of loans and grants,

44 including loans and grants that support flood prevention or protection studies of statewide or regional

45 significance. The Department shall develop and provide an opportunity for a 30-day public comment period

46 prior to each new grant or loan offering to solicit feedback on proposed revisions to the Virginia Community

47 Flood Preparedness Manual. A record of each application for a grant or loan and the action taken thereon

48 shall be available for public inspection at the office of the Department and on a publicly accessible website.

49 2. The Director shall convene an Advisory Review Committee (the Committee) to assist in the distribution

50 of loans and grants from the Fund. The Committee shall review applications to the Fund and make

51 recommendations on the disbursement of moneys from the Fund and any other appropriate issues to the

52 Department, the Secretary of Natural and Historic Resources, and the Chief Resilience Officer of the

53 Commonwealth. The Committee shall include representatives from the Department of Emergency

54 Management, the Department of Environmental Quality, the Department of Housing and Community

55 Development, a nonprofit group engaged in resilience efforts, the agriculture industry, the manufacturing

56 industry, and the business community, the Virginia Director of the Chesapeake Bay Commission, and others

57 as the Director deems appropriate. Appointed members of the Committee shall serve without compensation.

58 E. Localities, federally recognized tribes, and Virginia recognized tribes shall use moneys from the Fund

59 primarily for the purpose of implementing flood prevention and protection projects and studies in areas that  
60 are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund  
61 may be used to mitigate future flood damage and to assist inland and coastal communities across the  
62 Commonwealth that are subject to recurrent or repetitive flooding. No less than 25 percent of the moneys  
63 disbursed from the Fund each year shall be used for projects in low-income geographic areas. Priority shall  
64 be given to projects that implement community-scale hazard mitigation activities that use nature-based  
65 solutions to reduce flood risk.

66 F. Any locality, federally recognized tribe, or Virginia recognized tribe is authorized to secure a loan  
67 made pursuant to this section by placing a lien up to the value of the loan against any property that benefits  
68 from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for  
69 which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to  
70 the prior lienholder in its sole and exclusive discretion, that is recorded in the land records where the property  
71 is located.

72 G. Any locality, federally recognized tribe, or Virginia recognized tribe using moneys in the Fund to  
73 provide a loan for a project in a low-income geographic area is authorized to forgive the principal of such  
74 loan. If a locality, federally recognized tribe, or Virginia recognized tribe forgives the principal of any such  
75 loan, any obligation of the locality, federally recognized tribe, or Virginia recognized tribe to repay that  
76 principal to the Commonwealth shall not be forgiven and such obligation shall remain in full force and effect.  
77 The total amount of loans forgiven by all localities, federally recognized tribes, and Virginia recognized  
78 tribes in a fiscal year shall not exceed 30 percent of the amount appropriated in such fiscal year to the Fund  
79 by the General Assembly.

80 **§ 10.1-1330. Clean Energy and Community Flood Preparedness; report.**

81 A. The provisions of this article shall be incorporated by the Department, without further action by the  
82 Board, into the final regulation adopted by the Board on April 19, 2019, and published in the Virginia  
83 Register on May 27, 2019. Such incorporation by the Department shall be exempt from the provisions of the  
84 Virginia Administrative Process Act (§ 2.2-4000 et seq.).

85 B. The Director is hereby authorized to establish, implement, and manage an auction program to sell  
86 allowances into a market-based trading program consistent with the RGGI program and this article. The  
87 Director shall seek to sell 100 percent of all allowances issued each year through the allowance auction,  
88 unless the Department finds that doing so will have a negative impact on the value of allowances and result in  
89 a net loss of consumer benefit or is otherwise inconsistent with the RGGI program.

90 C. B. To the extent permitted by Article X, Section 7 of the Constitution of Virginia, the state treasury  
91 shall (i) hold the proceeds recovered from the allowance auction in an interest-bearing account with all  
92 interest directed to the account to carry out the purposes of this article and (ii) use the proceeds without  
93 further appropriation for the following purposes:

94 1. Forty-five percent of the revenue shall be credited to the account established pursuant to the Fund for  
95 the purpose of assisting localities and their residents affected by recurrent flooding, sea level rise, and  
96 flooding from severe weather events.

97 2. Fifty percent of the revenue shall be credited to an account administered by DHCD to support low-  
98 income energy efficiency programs, including programs for eligible housing developments. DHCD shall  
99 review and approve funding proposals for such energy efficiency programs, and DOE shall provide technical  
100 assistance upon request. Any sums remaining within the account administered by DHCD, including interest  
101 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in such account to  
102 support low-income energy efficiency programs.

103 3. Three percent of the revenue shall be used to (i) cover reasonable administrative expenses of the  
104 Department in the administration of the revenue allocation, carbon dioxide emissions cap and trade program,  
105 and auction and (ii) carry out statewide climate change planning and mitigation activities.

106 4. Two percent of the revenue shall be used by DHCD, in partnership with DOE, to administer and  
107 implement low-income energy efficiency programs pursuant to subdivision 2.

108 D. C. The Department, the Department of Conservation and Recreation, DHCD, and DOE shall prepare a  
109 joint annual written report describing the Commonwealth's participation in RGGI, the annual reduction in  
110 greenhouse gas emissions, the revenues collected and deposited in the interest-bearing account maintained by  
111 the Department pursuant to this article, and a description of each way in which money was expended during  
112 the fiscal year. The report shall be submitted to the Governor and General Assembly by January 1, 2022, and  
113 annually thereafter.

114 **§ 56-596.2:2. (Expires January 1, 2031) Energy efficiency savings targets for certain customers.**

115 A. The Commission shall establish for Phase II Utilities annual energy efficiency savings targets for  
116 customers who are low-income, elderly, disabled, or veterans of military service to be achieved through  
117 utility energy efficiency programs (low-income energy efficiency savings programs) designed to benefit such  
118 customers, provided that each year's target shall be measured by the total combined kilowatt-hour savings  
119 achieved by electric utility energy efficiency and demand response programs and measures installed for such  
120 customers in that program year, as well as savings still being achieved by measures and programs

121 implemented for such customers in prior years, and that such annual targets shall be at least one percent of  
 122 the average annual energy retail sales by that utility to those customers, to the extent that the potential exists  
 123 and is reasonably achievable as determined by the Commission. In establishing such targets, the Commission  
 124 shall seek to optimize energy efficiency and the health and safety benefits of utility energy efficiency  
 125 programs.

126 B. In advance of the effective date of such annual energy efficiency targets, the first of which shall be for  
 127 2025, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such  
 128 targets and the appropriate retail sales against which the energy efficiency targets will be measured. In setting  
 129 such targets, the Commission shall consider the impact and savings of energy efficiency programs authorized  
 130 by subdivision C B 2 of § 10.1-1330. The Commission shall also consider federal loan guarantees, grant  
 131 funds, and rebates made available pursuant to the federal Inflation Reduction Act (P.L. 117-169) or other  
 132 similar federal legislation that facilitates energy efficiency projects.

133 C. For the time period 2028 through 2030, the Commission shall review and, at its discretion, revise such  
 134 minimum annual targets to ensure continued consistency with the provisions of this section. All savings from  
 135 low-income energy efficiency programs shall be applied to the energy efficiency savings set forth in  
 136 subsection B of § 56-596.2.

137 D. In providing such low-income energy efficiency programs, Phase II Utilities shall make best efforts to  
 138 coordinate such energy efficiency programs with any health and safety upgrades provided through energy  
 139 efficiency programs authorized by subdivision C B 2 of § 10.1-1330, when reasonably feasible to do so and at  
 140 the utility's sole discretion.

141 E. For the purposes of this section, "Phase II Utility" has the same meaning as provided in subdivision A 1  
 142 of § 56-585.1.

143 **2. That all agencies or authorities of the Commonwealth with responsibilities identified in § 10.1-1330**  
 144 **of the Code of Virginia, as amended by this act, shall take all actions necessary to rejoin the Regional**  
 145 **Greenhouse Gas Initiative, as defined in § 10.1-1329 of the Code of Virginia, and resume participation**  
 146 **therein. Such required actions include (i) repealing the final regulation titled 9VAC5-140, Regulation**  
 147 **for Emissions Trading Programs, published in the Virginia Register of Regulations on July 31, 2023;**  
 148 **(ii) reissuing the final regulation titled 9VAC5-140, Regulation for Emissions Trading Programs,**  
 149 **published in the Virginia Register of Regulations on August 3, 2020; (iii) selling the allowances**  
 150 **generated by the reissued regulatory program through auctions run by the Regional Greenhouse Gas**  
 151 **Initiative; (iv) distributing auction proceeds in accordance with subsection B of § 10.1-1330 of Code of**  
 152 **Virginia, as amended by this act; and (v) providing annual reporting in accordance with subsection C**  
 153 **of § 10.1-1330 of Code of Virginia, as amended by this act. Any regulatory action necessary to**  
 154 **effectuate the requirements of this enactment is hereby exempted from the provisions of the**  
 155 **Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). The Department of**  
 156 **Environmental Quality shall complete such regulatory action without further action by the State Air**  
 157 **Pollution Control Board, and the reissued regulatory program shall take effect no later than 90 days**  
 158 **from the effective date of this act.**