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SENATE BILL NO. 327

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact § 56-249.8 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 23 of Title 56 sections numbered 56-596.7 through 56-596.10, relating to energy upgrade programs; implementation; capital investment requirements; cost recovery.

Patron—VanValkenburg

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-249.8 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 23 of Title 56 sections numbered 56-596.7 through 56-596.10 as follows:

§ 56-249.8. Financing for certain securitized asset costs; Phase I Utility.

A. As used in this section:

"Ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with securitized asset cost bonds.

"Assignee" means a legally recognized entity to which an electric utility assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to securitized asset cost property. "Assignee" includes a corporation, limited liability company, general partnership or limited partnership, public authority trust, financing entity, or other entity to which an assignee assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to securitized asset cost property.

"Bondholder" means a person who holds a securitized asset cost bond.

"Electric utility" means a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1.

"Financing costs" means:

1. Interest and any premium, including any acquisition, defeasance, or redemption premium, payable on securitized asset cost bonds;

2. Any payment required under any indenture, ancillary agreement, or other financing documents pertaining to securitized asset cost bonds and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to securitized asset bonds;

3. Any other costs related to structuring, offering, issuing, supporting, repaying, refunding, servicing, and complying with securitized asset cost bonds, including service fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of securitized asset cost bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;

4. Any taxes and license fees or other fees imposed on the revenues generated from the collection of securitized asset cost charges or otherwise resulting from the collection of securitized asset cost charges, in any such case whether paid, payable, or accrued;

5. Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including regulatory assessment fees, whether paid, payable, or accrued;

6. Any costs incurred by the Commission for any outside consultants or counsel retained in connection with the securitization of securitized asset costs; and

7. Any financing costs on the utility's securitized asset cost balance prior to issuance of any securitized asset cost bonds, calculated at the utility's approved weighted average cost of capital.

"Financing order" means an order that authorizes the issuance of securitized asset cost bonds; the imposition, collection, and periodic adjustments of a securitized asset cost charge; the creation of securitized asset cost property; the sale, assignment, or transfer of securitized asset cost property to an assignee; and any other actions necessary or advisable to take actions described in the financing order.

"Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of bondholders.

"Financing statement" has the same meaning as provided in § 8.9A-102 of the Uniform Commercial Code.

"Pledgee" means a financing party to which an electric utility or its successors or assignees mortgages,

59 negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to
60 securitized asset cost property.

61 "Securitized asset cost bonds" means bonds, debentures, notes, certificates of participation, certificates of
62 beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued
63 in one or more series or tranches by an electric utility or its assignee pursuant to a financing order, the
64 proceeds of which are used directly or indirectly to recover, finance, or refinance Commission-approved
65 securitized asset costs and financing costs, and that are secured by or payable from securitized asset cost
66 property. If certificates of participation or ownership are issued, references in this section to principal,
67 interest, or premium shall be construed to refer to comparable amounts under those certificates.

68 "Securitized asset cost charge" means the non-bypassable charges authorized by the Commission to repay,
69 finance, or refinance securitized asset costs and financing costs (i) imposed on and part of all retail customer
70 bills, except those of exempt retail access customers; (ii) collected by an electric utility or its successor or
71 assignees, or a collection agent, in full, separate and apart from the electric utility's base rates; and (iii) paid
72 by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except
73 for an exempt retail access customer.

74 "Securitized asset costs" means (i) storm recovery costs incurred by an electric utility due to severe
75 weather events, as recognized by nationally recognized standards including standards published by the
76 Institute of Electrical and Electronics Engineers, and natural disasters ~~and~~; (ii) undepreciated generation
77 utility plant balances; and (iii) *capital investments incurred by an electric utility in an energy upgrade*
78 *program as required by § 56-596.8.*

79 "Storm recovery costs" means investments and expenses incurred by an electric utility on or after January
80 1, 2024, arising from or related to any major storm, extraordinary weather event, or natural disaster affecting
81 Phase I Utility ratepayers in Virginia, including costs of the mobilization, staging, construction,
82 reconstruction, repair, or replacement of production, generation, transport, transmission, general, or
83 distribution facilities and the costs of any other activity by or on behalf of an electric utility in connection
84 with the restoration of service associated with outages impacting its customers as a result of such major
85 storm, extraordinary weather event, or natural disaster.

86 "Undepreciated generation utility plant balances" means any unrecovered capitalized costs of or
87 undepreciated investments in one or more fossil-fired electric generating plants having nameplate capacity in
88 excess of 1,000 megawatts each, and related supply, transmission, equipment, and fixtures. "Undepreciated
89 generation utility plant balances" shall include (i) the net book value of assets on the electric utility's balance
90 sheet related to such generating plants and related infrastructure and (ii) carrying costs authorized by the
91 Commission. "Undepreciated generation utility plant balances" does not include (a) any costs of removing
92 retired generating plant assets; (b) any capitalized costs and investments in fossil-fired electric generating
93 plants and related supply, transmission, equipment, and fixtures incurred or made by an electric utility on or
94 after December 31, 2023; and (c) any non-cash asset retirement obligation assets and related accumulated
95 depreciation.

96 "Uniform Commercial Code" means Titles 8.1A through 8.13 (§ 8.1A-101 et seq.).

97 B. Notwithstanding the provisions of Chapter 3 (§ 56-55 et seq.), an electric utility may petition the
98 Commission for a financing order pursuant to this section. No more than four months after the date such
99 petition is filed, the Commission shall issue either (i) such financing order in accordance with the
100 requirements of subdivision 2 or (ii) an order rejecting the petition.

101 1. The petition shall include (i) an estimate of the total amount of any securitized asset costs that the
102 electric utility has incurred over the time period noted in the petition; (ii) an indication of whether the electric
103 utility proposes to finance all or a portion of the securitized asset costs using one or more series or tranches of
104 securitized asset cost bonds; (iii) an estimate and details of the financing costs related to the securitized asset
105 costs to be financed through the securitized asset cost bonds; (iv) an estimate of the securitized asset cost
106 charges necessary to recover the securitized asset costs and all financing costs and the proposed period for
107 recovery of such costs; (v) a description of any benefits expected to result from the issuance of securitized
108 asset cost bonds, including the avoidance of or significant mitigation of abrupt and significant increases in
109 rates to the electric utility's customers for the applicable time period; and (vi) direct testimony and exhibits
110 supporting the petition. If the electric utility proposes to finance a portion of the securitized asset costs, the
111 electric utility shall identify in the petition the specific amount of securitized asset costs for the applicable
112 time period to be financed using securitized asset cost bonds. By electing not to finance a portion of the
113 securitized asset costs for an applicable time period using securitized asset cost bonds, an electric utility shall
114 not be deemed to waive its right to recover such costs pursuant to a separate proceeding with the
115 Commission.

116 2. a. A financing order issued by the Commission pursuant to this section shall include:

117 (1) The amount of securitized asset costs to be financed using securitized asset cost bonds. The
118 Commission shall describe and estimate the amount of financing costs that may be recovered through
119 securitized asset cost charges. The financing order shall also specify the period over which securitized asset
120 costs and financing costs may be recovered and whether the securitized asset cost bonds may be offered and

121 issued in one or more series or tranches during a fixed period not to exceed one year after the date of the
122 financing order;

123 (2) A finding that the proposed issuance of securitized asset cost bonds is in the public interest and the
124 associated securitized asset cost charges are just and reasonable;

125 (3) A finding that the structuring and pricing of the securitized asset cost bonds are reasonably expected to
126 result in reasonable securitized asset charges consistent with market conditions at the time the securitized
127 asset cost bonds are priced and the terms set forth in such financing order;

128 (4) A requirement that, for so long as the securitized asset cost bonds are outstanding and until all
129 financing costs have been paid in full, the imposition and collection of securitized asset cost charges
130 authorized under a financing order shall be non-bypassable and paid by all retail customers of the electric
131 utility, irrespective of the generation supplier of such customer, except for an exempt retail access customer;

132 (5) A formula-based true-up mechanism for making annual adjustments to the securitized asset cost
133 charges that customers are required to pay pursuant to the financing order and for making any adjustments
134 that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure
135 the timely payment of securitized asset cost bonds and financing costs and other required amounts and
136 charges payable in connection with the securitized asset cost bonds;

137 (6) The securitized asset cost property that is, or shall be, created in favor of an electric utility or its
138 successors or assignees and that shall be used to pay or secure securitized asset cost bonds and all financing
139 costs;

140 (7) The authority of the electric utility to establish (i) the terms and conditions of the securitized asset cost
141 bonds, including repayment schedules, expected interest rates, the issuance in one or more series or tranches
142 with different maturity dates, and other financing costs, and (ii) the terms and conditions of the ancillary
143 documents related to the securitized asset cost bonds, including servicing arrangements for securitized asset
144 cost charges;

145 (8) A finding that the securitized asset cost charges shall be allocated among customer classes in
146 accordance with the methodology approved in the electric utility's most recent base rate case;

147 (9) A requirement that after the final terms of an issuance of securitized asset cost bonds have been
148 established and before the issuance of securitized asset cost bonds, the electric utility determines the resulting
149 initial securitized asset cost charge in accordance with the financing order and that such initial securitized
150 asset cost charge be final and effective upon the issuance of such securitized asset cost bonds without further
151 Commission action so long as such initial securitized asset cost charge is consistent with the financing order;

152 (10) A method of tracing funds collected as securitized asset cost charges, or other proceeds of securitized
153 asset cost property, and a requirement that such method be the method of tracing such funds and determining
154 the identifiable cash proceeds of any securitized asset cost property subject to the financing order under
155 applicable law;

156 (11) A requirement that the electric utility's base rates, exclusive of the cost of securitized asset cost
157 bonds, reflect the reduction of rates associated with securitization effective on the date on which proceeds
158 from the issuance of the securitized asset cost bonds are received by the electric utility. Such requirement
159 may be met through the use of a temporary tracker to credit customers until such reduction is reflected in the
160 base rates established through the electric utility's next base rate case;

161 (12) Any other conditions not otherwise inconsistent with this section that the Commission determines are
162 appropriate;

163 (13) A requirement that the electric utility's base rates, exclusive of the cost of securitized asset cost
164 bonds, reflect the reduction of rate base associated with the securitization of utility plant balances effective on
165 the date proceeds from the issuance of the securitized asset cost bonds are received by the utility. This can be
166 accomplished through the use of a temporary tracker to credit customers until the electric utility's next base
167 rate case, at which point the reduction in rate base shall be reflected in base rates;

168 (14) A method of tracing funds collected as securitized asset cost charges, or other proceeds of securitized
169 asset cost property, and a requirement that such method be the method of tracing such funds and determining
170 the identifiable cash proceeds of any securitized asset cost property subject to the financing order under
171 applicable law; and

172 (15) Any other conditions not otherwise inconsistent with this section that the Commission determines are
173 appropriate.

174 b. Neither a financing order issued pursuant to this section nor the Commission's approval of a petition for
175 a financing order shall require that securitized asset cost bonds be marketed as a specified type of security or
176 that the assignee be formed as a specified type of entity. The electric utility shall maintain discretion to
177 determine the type of security that securitized asset cost bonds shall be.

178 c. A financing order issued to an electric utility may provide that creation of the electric utility's
179 securitized asset cost property is conditioned upon, and simultaneous with, the sale or other transfer for the
180 securitized asset cost property to an assignee and the pledge of the securitized asset cost property to secure
181 securitized asset cost bonds.

182 d. If the Commission issues a financing order, the Commission shall establish a protocol for the electric

183 utility to annually file a petition or, in the Commission's discretion, a letter setting out application of the
184 formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical
185 factors, requesting administrative approval to make applicable adjustments. The review of the filing shall be
186 limited to determining whether there are any mathematical or clerical errors in the application of the formula-
187 based mechanism relating to the appropriate amount of any overcollection or undercollection of securitized
188 asset cost charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues
189 sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or
190 redemption premium and other fees, costs, and charges in respect of securitized asset cost bonds approved
191 under the financing order. Within 30 days after receiving an electric utility's request pursuant to this
192 subdivision d, the Commission shall either approve the request or inform the electric utility of any
193 mathematical or clerical errors in its calculation. If the Commission informs the electric utility of
194 mathematical or clerical errors in its calculation, the electric utility may correct such errors and refile its
195 request. The 30-day time frame previously described in this subdivision d shall apply to a refiled request.

196 e. Subsequent to the transfer of securitized asset cost property to an assignee or the issuance of securitized
197 asset cost bonds authorized thereby, whichever is earlier, a financing order shall be irrevocable and, except
198 for changes made pursuant to the formula-based mechanism authorized in this section, the Commission shall
199 not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone,
200 terminate, or otherwise adjust securitized asset cost charges approved in the financing order. After the
201 issuance of a financing order, the electric utility shall retain sole discretion regarding whether to assign, sell,
202 or otherwise transfer securitized asset cost property or to cause securitized asset cost bonds to be issued,
203 including the right to defer or postpone such assignment, sale, transfer, or issuance.

204 3. At the request of an electric utility, the Commission may commence a proceeding and issue a
205 subsequent financing order that provides for refinancing, retiring, or refunding securitized asset cost bonds
206 issued pursuant to the original financing order if the Commission finds that the subsequent financing order
207 satisfies all of the criteria specified in this section for a financing order. Effective upon retirement of the
208 refunded securitized asset bonds and the issuance of new securitized asset cost bonds, the Commission shall
209 adjust the related securitized asset cost charges accordingly.

210 4. a. A financing order shall remain in effect and securitized asset cost property under the financing order
211 shall continue to exist until securitized asset cost bonds issued pursuant to the financing order have been paid
212 in full or defeased and, in each case, all Commission-approved financing costs of such securitized asset cost
213 bonds have been recovered in full.

214 b. A financing order issued to an electric utility shall remain in effect and unabated notwithstanding the
215 reorganization, bankruptcy or other insolvency proceedings, merger, or sale of the electric utility or its
216 successors or assignees.

217 C. 1. The Commission shall not, in exercising its powers and carrying out its duties regarding any matter
218 within its authority pursuant to this chapter, and notwithstanding any other provision of law, (i) consider the
219 securitized asset cost bonds issued pursuant to a financing order to be the debt of the electric utility other than
220 for federal income tax purposes, including for any purpose under § 56-585.8; (ii) consider the securitized
221 asset cost charges paid under the financing order to be the revenue of the electric utility for any purpose,
222 including for any purpose under § 56-585.8; (iii) consider the securitized asset costs or financing costs
223 specified in the financing order to be the costs of the electric utility, including for any purpose under
224 § 56-585.8; or (iv) determine any action taken by an electric utility that is consistent with the financing order
225 to be unjust or unreasonable.

226 2. The Commission shall not order or otherwise directly or indirectly require an electric utility to use
227 securitized asset cost bonds to finance any project, addition, plant, facility, extension, capital improvement,
228 equipment, or any other expenditure. After the issuance of a financing order, the electric utility shall retain
229 sole discretion regarding whether to cause the securitized asset cost bonds to be issued, including the right to
230 defer or postpone such sale, assignment, transfer, or issuance. Nothing shall prevent the electric utility from
231 abandoning the issuance of securitized asset cost bonds under the financing order by filing with the
232 Commission a statement of abandonment and the reasons therefor. The Commission shall not deny an electric
233 utility its right to recover securitized asset costs as otherwise provided in this section, or refuse or condition
234 authorization or approval of the issuance and sale by an electric utility of securities or the assumption by the
235 electric utility of liabilities or obligations, solely because of the potential availability of securitized asset cost
236 bond financing.

237 D. The electric bills of an electric utility that has obtained a financing order and caused securitized asset
238 cost bonds to be issued shall comply with the provisions of this subsection; however, the failure of an electric
239 utility to comply with this subsection shall not invalidate, impair, or affect any financing order, securitized
240 asset cost property, securitized asset cost charge, or securitized asset cost bonds. The electric utility shall:

241 1. Explicitly reflect that a portion of the charges on any electric bill represents securitized asset cost
242 charges approved in a financing order issued to the electric utility and, if the securitized asset cost property
243 has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the
244 owner of the rights to securitized asset cost charges and that the electric utility or another entity, if applicable,

245 is acting as a collection agent or servicer for the assignee. The tariff applicable to customers must indicate the
 246 securitized asset cost charge and the ownership of the charge; and

247 2. Include the securitized asset cost charge on each customer's bill as a separate line item and include both
 248 the rate and the amount of the charge on each bill.

249 E. 1. The following provisions shall be applicable to securitized asset cost property:

250 a. All securitized asset cost property that is specified in a financing order shall constitute an existing,
 251 present intangible property right or interest therein, notwithstanding that the imposition and collection of
 252 securitized asset cost charges depends on the electric utility, to which the financing order is issued,
 253 performing its servicing functions relating to the collection of securitized asset cost charges and on future
 254 electricity consumption. The securitized asset cost property shall exist (i) regardless of whether or not the
 255 revenues or proceeds arising from the securitized asset cost property have been billed, have accrued, or have
 256 been collected and (ii) notwithstanding the fact that the value or amount of the securitized asset cost property
 257 is dependent on the future provision of service to customers by the electric utility or its successors or
 258 assignees and the future consumption of electricity by customers;

259 b. Securitized asset cost property specified in a financing order shall exist until securitized asset cost
 260 bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of such
 261 securitized asset cost bonds have been recovered in full;

262 c. All or any portion of securitized asset cost property specified in a financing order issued to an electric
 263 utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned,
 264 directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or
 265 administering securitized asset cost property or issuing securitized asset cost bonds under the financing order.
 266 All or any portion of securitized asset cost property may be pledged to secure securitized asset cost bonds
 267 issued pursuant to the financing order, amounts payable to financing parties and to counterparties under any
 268 ancillary agreements, and other financing costs. Any transfer, sale, conveyance, assignment, or grant of a
 269 security interest in or pledge of securitized asset cost property by an electric utility, or an affiliate of the
 270 electric utility, to an assignee, to the extent previously authorized in a financing order, shall not require the
 271 prior consent and approval of the Commission;

272 d. If an electric utility defaults on any required payment of charges arising from securitized asset cost
 273 property specified in a financing order, a court, upon application by an interested party, and without limiting
 274 any other remedies available to the applying party, shall order the sequestration and payment of the revenues
 275 arising from the securitized asset cost property to the financing parties or their assignees. Any such financing
 276 order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other
 277 insolvency proceedings with respect to the electric utility or its successors or assignees;

278 e. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in securitized asset cost property
 279 specified in a financing order issued to an electric utility, and in the revenue and collections arising from that
 280 property, shall not be subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other
 281 person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any
 282 other entity;

283 f. Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other
 284 insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination,
 285 or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and
 286 satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the
 287 financing order in the same manner and to the same extent as the electric utility, including collecting and
 288 paying to the person entitled to receive the revenues, collections, payments, or proceeds of the securitized
 289 asset cost property. Nothing in this subdivision f is intended to limit or impair any authority of the
 290 Commission concerning the transfer or succession of interests of public utilities; and

291 g. Securitized asset cost bonds shall be nonrecourse to the credit or any assets of the electric utility other
 292 than the securitized asset cost property as specified in the financing order and any rights under any ancillary
 293 agreement.

294 2. The following provisions shall be applicable to security interests:

295 a. The creation, perfection, and enforcement of any security interest in securitized asset cost property to
 296 secure the repayment of the principal and interest and other amounts payable in respect of securitized asset
 297 cost bonds; amounts payable under any indenture, ancillary agreement, or other financing documents in
 298 respect of the securitized asset costs; and other financing costs shall be governed by this subsection and not
 299 by the provisions of the Uniform Commercial Code;

300 b. A security interest in securitized asset cost property shall be created and enforceable when all of the
 301 following have occurred: (i) a financing order is issued, (ii) value is received by the debtor or seller for such
 302 securitized asset cost property, (iii) the debtor or seller has rights in such securitized asset cost property or the
 303 power to transfer rights in such securitized asset cost property, and (iv) a security agreement granting such
 304 security interest is executed and delivered by the debtor or seller. The description of securitized asset cost
 305 property in a security agreement shall be sufficient if the description refers to this section and the financing

306 order creating the securitized asset cost property;

307 c. A security interest shall attach without any physical delivery of collateral or other act and, upon the
308 filing of a financing statement with the Commission, the lien of the security interest shall be valid, binding,
309 and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person
310 granting the security interest, regardless of whether the parties have notice of the lien. Also upon this filing, a
311 transfer of an interest in the securitized asset cost property shall be perfected against all parties having claims
312 of any kind, including any judicial lien or other lien creditors or any claims of the transferor or creditors of
313 the transferor, and shall have priority over all competing claims other than any prior security interest,
314 ownership interest, or assignment in the property previously perfected in accordance with this section;

315 d. The Commission shall maintain any financing statement filed to perfect any security interest under this
316 section in the same manner that the Commission maintains financing statements filed by transmitting utilities
317 under the Uniform Commercial Code. The filing of a financing statement under this section shall be governed
318 by the provisions regarding the filing of financing statements in the Uniform Commercial Code;

319 e. The priority of a security interest in securitized asset cost property shall not be affected by the
320 commingling of securitized asset cost charges with other amounts. Any pledgee or secured party shall have a
321 perfected security interest in the amount of all securitized asset cost charges that are deposited in any cash or
322 deposit account of the qualifying utility in which securitized asset cost charges have been commingled with
323 other funds and any other security interest that may apply to those funds shall be terminated when they are
324 transferred to a segregated account for the assignee or a financing party;

325 f. No application of the formula-based adjustment mechanism as provided in this section shall affect the
326 validity, perfection, or priority of a security interest in or transfer of securitized asset cost property; and

327 g. If a default or termination occurs under the securitized asset cost bonds, the financing parties or their
328 representatives may foreclose on or otherwise enforce their lien and security interest in any securitized asset
329 cost property as if they were secured parties with a perfected and prior lien under the Uniform Commercial
330 Code, and the Commission may order that amounts arising from securitized asset cost charges be transferred
331 to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On
332 application by or on behalf of the financing parties, the Commission shall order the sequestration and
333 payment to them of revenues arising from the securitized asset cost charges.

334 3. a. Any sale, assignment, or other transfer of securitized asset cost property shall be an absolute transfer
335 and true sale of and not a pledge of, or secured transaction relating to, the transferor's right, title, and interest
336 in, to, and under the securitized asset cost property if the documents governing the transaction expressly state
337 that the transaction is a sale or other absolute transfer other than for federal and state income tax purposes.
338 For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction
339 as a sale of an interest in securitized asset cost property shall be conclusive that the transaction is a true sale
340 and that ownership has passed to the party characterized as the purchaser, regardless of any fact or
341 circumstance that might support characterization of the transfer as a secured transaction. A transfer of an
342 interest in securitized asset cost property shall occur only when all of the following have occurred: (i) the
343 financing order creating the securitized asset cost property has become effective, (ii) the documents
344 evidencing the transfer of securitized asset cost property have been executed by the transferor and delivered
345 to the assignee, and (iii) value is received by the transferor for the securitized asset cost property. After such a
346 transaction, the securitized asset cost property shall not be subject to any claims of the transferor or the
347 transferor's creditors, other than creditors holding a prior security interest in the securitized asset cost
348 property perfected in accordance with subdivision 2.

349 b. The characterization of the sale, assignment, or other transfer as an absolute transfer and true sale, and
350 the corresponding characterization of the interest of the assignee as an ownership interest, shall not be
351 affected or impaired by the occurrence of any of the following factors:

352 (1) Commingling of securitized asset cost charges with other amounts;

353 (2) The retention by the seller of (i) a partial or residual interest, including an equity interest, in the
354 securitized asset cost property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right
355 to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of securitized
356 asset cost charges;

357 (3) Any recourse that the assignee may have against the seller;

358 (4) Any right or obligation that the seller may have to repurchase the securitized asset cost charges;

359 (5) Any indemnification obligations of the seller;

360 (6) The obligation of the seller to collect securitized asset cost charges on behalf of the assignee;

361 (7) The transferor acting as the servicer of the securitized asset cost charges or the existence of any
362 contract that authorizes or requires the electric utility, to the extent that any interest in securitized asset cost
363 property is sold or assigned, to agree with the assignee or any financing party that it will continue to operate
364 its system to provide service to its customers, will collect amounts in respect of the securitized asset cost
365 charges for the benefit and account of such assignee or financing party, and will account for and remit such
366 amounts to or for the account of such assignee or financing party;

367 (8) The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or

368 other purposes;

369 (9) The granting or providing to bondholders of a preferred right to the securitized asset cost property or
 370 credit enhancement by the electric utility or its affiliates with respect to the securitized asset cost bonds; or

371 (10) Any application of the formula-based adjustment mechanism as provided in this section.

372 c. Any right that an electric utility has in the securitized asset cost property before its pledge, sale, or
 373 transfer or any other right created under this section or created in the financing order and assignable under
 374 this section or assignable pursuant to a financing order shall be property in the form of a contract right or a
 375 chose in action. Transfer of an interest in securitized asset cost property to an assignee shall be enforceable
 376 only when all of the following have occurred: (i) a financing order is issued, (ii) value is received by the
 377 transferor for such securitized asset cost property, (iii) the transferor has rights in such securitized asset cost
 378 property or the power to transfer rights in such securitized asset cost property, and (iv) transfer documents in
 379 connection with the issuance of securitized asset cost bonds are executed and delivered by the transferor. An
 380 enforceable transfer of an interest in securitized asset cost property to an assignee shall be perfected against
 381 all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been
 382 given by the filing of a financing statement in accordance with subdivision 2 c. The transfer shall be perfected
 383 against third parties as of the date of filing.

384 d. The Commission shall maintain any financing statement filed to perfect any sale, assignment, or
 385 transfer of securitized asset cost property under this section in the same manner that the Commission
 386 maintains financing statements filed by transmitting utilities under the Uniform Commercial Code. The filing
 387 of any financing statement under this section shall be governed by the provisions regarding the filing of
 388 financing statements in the Uniform Commercial Code. The filing of such a financing statement shall be the
 389 only method of perfecting a transfer of securitized asset cost property.

390 e. The priority of a transfer perfected under this section shall not be impaired by any later modification of
 391 the financing order or securitized asset cost property or by the commingling of funds arising from securitized
 392 asset cost property with other funds. Any other security interest that may apply to those funds, other than a
 393 security interest perfected under subdivision 2, shall be terminated when they are transferred to a segregated
 394 account for the assignee or a financing party. If securitized asset cost property has been transferred to an
 395 assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing
 396 party.

397 f. The priority of the conflicting interests of assignees in the same interest or rights in any securitized asset
 398 cost property shall be determined as follows:

399 (1) Conflicting perfected interests or rights of assignees shall rank according to priority in time of
 400 perfection. Priority shall date from the time a filing covering the transfer is made in accordance with
 401 subdivision 2 c;

402 (2) A perfected interest or right of an assignee shall have priority over a conflicting unperfected interest or
 403 right of an assignee; and

404 (3) A perfected interest or right of an assignee shall have priority over a person who becomes a lien
 405 creditor after the perfection of such assignee's interest or right.

406 F. The description of securitized asset cost property being transferred to an assignee in any sale
 407 agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security
 408 agreement, pledge agreement, or other security document, or indicated in any financing statement shall only
 409 be sufficient if such description or indication refers to the financing order that created the securitized asset
 410 cost property and states that the agreement or financing statement covers all or part of the property described
 411 in the financing order. This section shall apply to all purported transfers of, and all purported grants or liens
 412 or security interests in, securitized asset cost property, regardless of whether the related sale agreement,
 413 purchase agreement, other transfer agreement, security agreement, pledge agreement, or other security
 414 document was entered into, or any financing statement was filed.

415 G. All financing statements referenced in this section shall be subject to Part 5 of Title 8.9A (§ 8.9A-501
 416 et seq.) of the Uniform Commercial Code, except that the requirement as to continuation statements shall not
 417 apply.

418 H. The laws of the Commonwealth shall govern the validity, enforceability, attachment, perfection,
 419 priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation
 420 of a security interest in any securitized asset cost property.

421 I. Neither the Commonwealth nor its political subdivisions shall be liable on any securitized asset cost
 422 bonds, and the bonds shall not be a debt or a general obligation of the Commonwealth or any of its political
 423 subdivisions, agencies, or instrumentalities, nor shall they be special obligations or indebtedness of the
 424 Commonwealth or any of its agencies or political subdivisions. An issue of securitized asset cost bonds shall
 425 not, directly, indirectly, or contingently, obligate the Commonwealth or any agency, political subdivision, or
 426 instrumentality of the Commonwealth to levy any tax or make any appropriation for payment of the
 427 securitized asset cost bonds, other than in their capacity as consumers of electricity. All securitized asset cost
 428 bonds shall contain on the face thereof a statement to the following effect: "NEITHER THE FULL FAITH

429 AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH IS PLEDGED TO THE
 430 PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THIS BOND."

431 J. All of the following entities may legally invest any sinking funds, moneys, or other funds in securitized
 432 asset cost bonds:

433 1. Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth,
 434 units of local government, political subdivisions, public bodies, and public officers, except for members of
 435 the Commission;

436 2. Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and
 437 institutions, investment companies, insurance companies, insurance associations, and other persons carrying
 438 on a banking or insurance business;

439 3. Personal representatives, guardians, trustees, and other fiduciaries; and

440 4. All other persons authorized to invest in bonds or other obligations of a similar nature.

441 K. 1. The Commonwealth and its agencies, including the Commission, pledge and agree with
 442 bondholders, the owners of the securitized asset cost property, and other financing parties that the
 443 Commonwealth and its agencies shall not take any action listed in this subdivision. This subsection does not
 444 preclude limitation or alteration if full compensation is made by law for the full protection of the securitized
 445 asset cost charges collected pursuant to a financing order and of the bondholders and any assignee or
 446 financing party entering into a contract with the electric utility. The Commonwealth and its agencies,
 447 including the Commission, shall not:

448 a. Alter the provisions of this section that authorize the Commission to create an irrevocable contract right
 449 or chose in action by the issuance of a financing order, to create securitized asset cost property, and to make
 450 the securitized asset cost charges imposed by a financing order irrevocable, binding, or non-bypassable
 451 charges;

452 b. Take or permit any action that impairs or would impair the value of securitized asset cost property or
 453 the security for the securitized asset cost bonds or revises the securitized asset costs for which recovery is
 454 authorized;

455 c. In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; or

456 d. Except for changes made pursuant to the formula-based adjustment mechanism authorized under this
 457 section, reduce, alter, or impair securitized asset cost charges that are to be imposed, billed, charged,
 458 collected, and remitted for the benefit of the bondholders, any assignee, and any other financing parties until
 459 any and all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and
 460 any contracts to be performed, in connection with the related securitized asset cost bonds have been paid and
 461 performed in full.

462 2. Any person that issues securitized asset cost bonds may include the language specified in subdivision 1
 463 in the securitized asset cost bonds and related documentation.

464 L. An assignee or financing party shall not be considered an electric utility or person providing electric
 465 service by virtue of engaging in the transactions described in this section.

466 M. If there is a conflict between this section and any other law regarding the attachment, assignment, or
 467 perfection, or the effect of perfection, or priority of, assignment or transfer of, or security interest in
 468 securitized asset cost property, this section shall govern.

469 N. In making determinations under this section, the Commission may engage an outside consultant and
 470 counsel.

471 O. Nothing in this section shall be construed to limit the ability of an electric utility to seek any available
 472 relief pursuant to any other provision of law, including § 56-585.8.

473 P. The provisions of this section shall not apply to any customer that has chosen to purchase electric
 474 energy from a licensed supplier other than the incumbent electric utility serving the exclusive territory in
 475 which such customer is located pursuant to § 56-577 prior to February 1, 2019.

476 **§ 56-596.7. Energy upgrade programs.**

477 A. As used in this section and §§ 56-596.8, 56-596.9, and 56-596.10:

478 "Electric utility" or "utility" means a Phase I or Phase II Utility.

479 "Eligible customer" means a customer of an electric utility that (i) owns the property at which the
 480 customer receives utility service or (ii) rents the property at which the customer receives utility service, pays
 481 all or some of the regular bill for the utility service, and has the written permission of the property owner to
 482 participate in a utility's program.

483 "Energy project" means an upgrade of the efficiency of energy usage at a participant's location, including
 484 the addition of renewable energy generation systems such as solar projects, energy efficiency improvements,
 485 energy storage systems, demand response equipment, and any combination of such upgrades. "Energy
 486 project" includes the conversion of fossil fuel-fired appliances to electric.

487 "Participant" means (i) an eligible customer that elects to participate in a utility's program or (ii) a
 488 successor customer.

489 "Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

490 "Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

491 "Energy upgrade program" or "program" means an energy upgrade program offered by a utility pursuant
 492 to this section and §§ 56-596.8, 56-596.9, and 56-596.10.

493 "Program contractor" means a contractor that is selected by the participant from an approved list
 494 facilitated by a program operator to perform an energy project.

495 "Program operator" means a state agency or entity responsible for implementing a utility's program
 496 pursuant to this section.

497 "Reasonable rate of return" means the utility's Commission-approved return on equity.

498 "Special rate" means a rate established in a schedule established by a utility in order to recover its costs
 499 incurred in offering one or more energy projects and a reasonable rate of return on those costs.

500 "Special rate charge" means a monthly or other regular charge that is associated with one or more
 501 energy projects and that a participant or a successor customer at a location pays to a utility pursuant to a
 502 special rate, provided that proper notice was given prior to a change in ownership or occupancy in
 503 accordance with §§ 55.1-1202 and 55.1-1204.

504 "Successor customer" means a customer of a utility taking occupancy at a location where an energy
 505 project has been installed and where a special rate charge is still in effect.

506 B. Each electric utility shall implement an energy upgrade program by January 1, 2027. Such program
 507 shall:

508 1. Allow a program operator to implement energy projects at an eligible customer's location and recover
 509 the costs of such energy project by imposing a special rate charge that is payable directly through the
 510 customer's utility bill;

511 2. Allow an eligible customer of a utility to request and agree to the installation of an energy project at
 512 such customer's location;

513 3. Set a program participant's special rate charge based on the program operator's cost calculations as
 514 described in subsection D of § 56-596.9. A program participant's annual special rate charges shall not
 515 exceed 80 percent of the participant's estimated annual cost savings under utility rates in place at the time of
 516 installation of the energy project. The term of cost recovery shall be no more than 80 percent of the estimated
 517 life span of the installed upgrade. After a project has been operational for one year, a program operator
 518 shall evaluate the project to ensure that it is performing as estimated and if needed may adjust the special
 519 rate charge to better reflect actual savings. Program participants may request that the program operator
 520 perform an additional evaluation halfway through the energy project's useful life to ensure that the project is
 521 performing as estimated and, if needed, the program operator may adjust the special rate charge to better
 522 reflect actual savings. The Commission may determine and set the percentages for special rate charges and
 523 term of cost recovery at a lower percentage if the Commission determines that a lower percentage better
 524 serves ratepayers. The Commission may also determine and set different percentages for special rate charges
 525 and term of cost recovery for different types of energy upgrade technologies that are part of an energy
 526 project;

527 4. Allow eligible customers to voluntarily provide payment to a program contractor to ensure that energy
 528 projects meet the requirements described in subsection D of § 56-596.9;

529 5. Allow eligible customers to make one or more voluntarily additional payments towards the cost of the
 530 energy project, in an amount of the customer's choosing, at any time;

531 6. Require participants to permit a utility to recover its costs for investments at individual participants'
 532 locations by collecting a special rate charge through the participants' utility bills;

533 7. Be consistent with the essential consumer protections listed on the U.S. Environmental Protection
 534 Agency's inclusive utility investment website at the time of program design;

535 8. For a program offered by a Phase II Utility, incorporate any eligible energy projects implemented
 536 under the program in the virtual power plant pilot program required by § 56-585.1:6 to the extent
 537 practicable; and

538 9. Allow participants to jointly participate in the Percentage Of Income Payment Program established
 539 pursuant to § 56-585.6.

540 C. In offering a program, a utility shall apply the special rate charge to a participant's bill no sooner than
 541 45 days after an energy project is inspected and approved by a program operator or a program operator's
 542 designee.

543 D. In offering a program, a utility shall provide each eligible customer with information about all
 544 applicable utility and government programs to reduce costs of energy bills through energy efficiency and
 545 demand response, including rebates, tax credits, and virtual power plants, as well as utility bill discounts or
 546 subsidies and free energy improvements. A program operator shall coordinate with customers and the
 547 administrators of relevant no-cost and low-cost programs to ensure that eligible customers have pursued
 548 such discounts, subsidies, and improvements before proceeding with energy projects under a program.

549 E. A utility offering a program shall hire one or more experienced program operators, in accordance with
 550 rules promulgated by the Commission, to operate the program.

551 F. In designing a program, a program operator shall, in consultation with the utility, make reasonable
 552 efforts to identify eligible customers with a high potential for cost savings. In marketing a program, a

553 program operator may prioritize marketing to high energy users and customers with failed essential
 554 equipment such as space and water heating equipment. In implementing a program, a program operator
 555 shall (i) prioritize the use of program contractors that have employees who have received training through
 556 state-created or state-funded job training programs; (ii) pursue, to the extent practicable, bulk procurement
 557 of equipment and may pursue other cost-saving measures such as competitive pricing among program
 558 contractors; and (iii) coordinate, whenever structural repairs are deemed to be necessary prior to
 559 installation of an energy project and to the extent practicable, with the Department of Housing and
 560 Community Development and other relevant agencies to connect eligible customers to available funding for
 561 such repairs and, if necessary, to a qualified weatherization provider.

562 G. No utility shall require an eligible customer to continue paying the special rate charge for any energy
 563 project that fails to perform as intended and is not repaired within 21 days after the utility receives notice of
 564 the failure, unless the energy project has been damaged or failed to be maintained by the participant or
 565 occupants at the location. The program operator or the program operator's designee shall be responsible for
 566 verifying any failure and its cost. The program operator or its designee shall also be responsible for
 567 repairing the failed project. In the case of such a failure, the utility may resume applying charges after the
 568 energy project is repaired and functioning, and the utility may extend the term of payments to recover the
 569 utility's costs for missed payments and repairs, provided the repairs were necessary because of actions by the
 570 program participant, for as long as the energy project continues to function. If the energy project is not
 571 repaired within 21 days, the utility shall bear the costs of repayment until the energy project is repaired.
 572 Disputes that arise concerning the assignment of fault for a failed energy project shall be handled using the
 573 dispute resolution process established by Commission regulation for disputes arising out of the
 574 interconnection process for small electrical generators and storage. For failures that are determined to be
 575 caused by the actions of a participant or occupant and such participant or occupant is unable to afford the
 576 necessary repairs, the Commission shall establish a procedure to resolve such failures. Such a procedure
 577 may include a petition by the utility to write-off the necessary repairs, recalculation of the special rate
 578 charge, utilization of energy assistance services, or arrearage management plans.

579 H. A customer that damages or fails to maintain an energy project shall be responsible for the full repair
 580 of the project and payment of the balance to the utility for cost recovery associated with the damage within
 581 the energy project. Notwithstanding any other provision of law, the participant at a location with an energy
 582 project shall be responsible for the actions of any occupants at such location.

583 I. Special rate charges shall be binding on successor customers in locations where energy projects have
 584 been installed, provided that proper notice was given by the seller or property owner prior to a change in
 585 ownership or occupancy. Upon notice to a program operator of a successor customer assuming
 586 responsibility for the utility bill at a location where an energy project has been installed, the program
 587 operator shall evaluate the project to ensure estimated savings for the successor customer and may adjust the
 588 repayment length or special rate charge amount, or both, as necessary. However, in no event shall (i) the
 589 repayment term length exceed 90 percent of the energy project's estimated useful life or (ii) the special rate
 590 charge amount exceed 90 percent of estimated savings.

591 J. The Commission shall evaluate each program implemented pursuant to this section 18 months after a
 592 utility begins offering a program and every five years thereafter. In evaluating the program, the Commission
 593 shall consider, among other things, participant net costs, on-site energy usage changes across all relevant
 594 fuels, grid benefits, housing characteristics, and demographic data.

595 K. Nothing in this section shall exempt an energy project from any other approval process that it would
 596 otherwise be subject to, including the approval processes of applicable homeowners associations,
 597 condominiums, or cooperatives.

598 **§ 56-596.8. Energy upgrade programs; capital investment requirements; recovery of costs.**

599 A. The Commission shall establish program guidelines with the schedule of program availability as
 600 follows:

601 1. On and after July 1, 2027, and until July 1, 2029:

602 a. Each Phase I Utility shall invest capital in an amount not less than \$150 million for investments in
 603 energy projects implemented under the Phase I Utility's program;

604 b. Each Phase II Utility shall invest capital in an amount not less than \$750 million for investments in
 605 energy projects implemented under the Phase II Utility's program; and

606 c. Phase I and Phase II Utilities shall prioritize residential solar and hybrid solar and storage energy
 607 projects.

608 2. On and after July 1, 2029, and until July 1, 2030:

609 a. Each Phase I Utility shall invest capital in an amount not less than \$50 million for investments in
 610 energy projects implemented under the Phase I Utility's program; and

611 b. Each Phase II Utility shall invest capital in an amount equal to \$50 million for investments in energy
 612 projects implemented under the Phase II Utility's program.

613 3. On and after July 1, 2030, each utility shall invest capital in an amount that allows the utility to
 614 implement cost-effective energy projects requested by any eligible customer of the utility, identified by a third

615 party or the program operator.

616 B. A program operator shall inform customers of the availability of the program and their potential
617 eligibility to participate.

618 C. The Commission shall promulgate rules allowing each utility to recover all of the incurred costs of
619 offering a program, provided that the utility meets the Commission's thresholds for the number of customers
620 served and the amount of its investments in those customers' locations. Capital investments incurred by a
621 Phase I Utility pursuant to this section shall be eligible for securitization in accordance with the provisions of
622 § 56-249.8. Energy projects shall be considered regulatory assets of the utility for purposes of cost recovery.
623 However, the energy projects installed at the customer's property shall be considered the customer's property
624 and in no event shall the energy projects be deemed to be owned by the utility.

625 D. A utility shall treat a completed energy project as an essential utility service and shall treat
626 nonpayment for a completed energy project the same as all other essential utility services.

627 E. All federal funding received for energy projects shall be applied directly to reduce the special rate
628 charges or terms of cost recovery paid by eligible customers, whichever the Commission deems is more
629 beneficial to the customer.

630 F. The Commission shall create a reserve fund to make up for any shortfalls in anticipated savings for
631 participants if the Commission determines after its evaluation conducted pursuant to the provisions of
632 subsection J of § 56-596.7 that such a reserve fund is necessary. To the extent funds remain in the fund after
633 savings shortfalls have been addressed, such funds may also be used as voluntary additional payments for
634 low-income customers who could not participate in the program but for the voluntary additional payment.

635 **§ 56-596.9. Energy upgrade programs; program operator duties.**

636 A. A program operator shall implement a utility's program by contacting potential participants, assessing
637 which energy projects qualify for the program at certain locations, ensuring that program contractors'
638 licenses and certificates of insurance are maintained, ensuring that energy projects are completed by
639 program contractors, overseeing energy project installations, and resolving disputes between parties during
640 the installation and life span of an energy project.

641 B. A program operator may negotiate with supply chain actors, including manufacturers, distributors,
642 and installation contractors, to obtain discounts for services or products from program contractors in order
643 to lower costs for the utility and for eligible participants.

644 C. In calculating the cost-effectiveness of a proposed energy project in an eligible customer's location, a
645 program operator shall use the process established by the rules promulgated by the Commission pursuant to
646 § 56-596.7. A program operator shall determine that a proposed energy project is sufficiently cost-effective
647 only if the program operator determines that the monetary value of the estimated energy savings from the
648 energy project will produce annual net savings after the special rate charge is applied, based on rates in
649 effect at the time of installation or using a Commission-approved rate escalation algorithm.

650 D. A program operator shall create and administer an authorized contractor program to provide
651 authorized contractors to a utility that offers an energy upgrade program. The Commission shall establish
652 minimum criteria for contractors that wish to participate in the authorized contractor program, including
653 requiring participating contractors to demonstrate specific skills, licensure, or certification and possess
654 adequate insurance or bonding coverage. In any list of program contractors produced by a program
655 operator, the program operator shall highlight any contractor that is a licensed residential building energy
656 analyst as defined in § 54.1-1144. The program operator shall prioritize local hiring within the authorized
657 contractor program.

658 E. The Commission shall establish compensation for program operators tied to the necessary costs for the
659 provision of services by program operators.

660 **§ 56-596.10. Energy upgrade programs; implementation plan.**

661 A. No later than January 1, 2027, the Commission shall require each utility in the Commonwealth to hire
662 a program operator to implement an energy upgrade program.

663 B. No later than the date at which the Commission's rules relating to energy upgrade programs become
664 effective, each utility shall submit an implementation plan to the Commission that describes the utility's plan
665 for implementing such a program. If the Commission finds that the content of the implementation plan does
666 not comply with the requirements of §§ 56-596.7, 56-596.8, and 56-596.9 or any rule promulgated by the
667 Commission, the Commission may require the utility to modify its implementation plan.

668 **2. That, no later than 180 days after the effective date of this act, the State Corporation Commission**
669 **shall convene a stakeholder process in which interested parties shall evaluate issues related to energy**
670 **projects, as defined in § 56-596.7 of the Code of Virginia, as created by this act. The stakeholder group**
671 **shall submit comments related to the implementation of energy upgrade programs by utilities pursuant**
672 **to §§ 56-596.7 through 56-596.10 of the Code of Virginia, as created by this act. The stakeholder group**
673 **shall complete its meetings by November 30, 2026, and shall submit to the Chairs of the House**
674 **Committee on Labor and Commerce and the Senate Committee on Commerce and Labor a report of**
675 **its findings and recommendations no later than the first day of the 2027 Regular Session of the General**
676 **Assembly.**

677 3. That the State Corporation Commission (the Commission) shall promulgate regulations to
678 implement the provisions of §§ 56-596.7 through 56-596.10 of the Code of Virginia, as created by this
679 act, to be effective within 365 days of the effective date of this act. In promulgating the regulations, the
680 Commission shall review the input of stakeholders convened pursuant to the second enactment of this
681 act. The regulations shall include (i) rules for determining which potential energy projects are eligible
682 for program participation, except that energy projects that are intended to directly improve gas, water,
683 and space heating appliance operating efficiency or to install gas appliances shall not be eligible
684 projects; (ii) rules establishing conditions under which certain electric utilities may secure capital to
685 fund energy projects, as required by § 56-596.8 of the Code of Virginia, as created by this act, and in
686 promulgating such rules the Commission shall (a) allow utilities to raise capital independently or work
687 with third-party lenders to secure capital; (b) require a utility to identify the least costly sources of
688 capital suitable for the duration of cost recovery as specified in section § 56-596.7 of the Code of
689 Virginia, as created by this act; and (c) allow the Commonwealth to identify or provide the lowest cost
690 capital for a utility's program; (iii) rules establishing a process for program operators to use to
691 calculate the cost-effectiveness of proposed energy projects at a customer's location and the
692 Commission's approval of each program operator's cost-effectiveness analysis protocols and software
693 prior to their use in one or more programs or the Commission may designate an independent third-
694 party certification in lieu of direct approval; (iv) rules establishing guidelines for program operators to
695 use in communicating with customers about a utility program; (v) rules requiring each utility to hire
696 one or more experienced program operators to perform the duties described in § 56-596.9 of the Code
697 of Virginia, as created by this act, which program operator shall not be partially or wholly owned by
698 the hiring utility nor owned by companies that the hiring utility partially or wholly owns; (vi) rules that
699 require continued bill savings for successor customers, with a focus on successor customers in rental
700 properties; and (vii) rules and standards for evaluation, measurement, and verification of utility
701 programs consistent with those in 20VAC5-318-50 of the Virginia Administrative Code. In
702 promulgating rules, the Commission shall determine how best to include access to the program for
703 utility customers that need emergency upgrades when one or more major existing appliances fail and
704 must be quickly replaced.

705 4. That, in promulgating rules pursuant to this first and third enactments of this act, the State
706 Corporation Commission (the Commission) shall determine how best to serve residents of
707 environmental justice communities, as defined in § 2.2-234 of the Code of Virginia, through
708 implementation of a program, as defined in § 56-596.7 of the Code of Virginia, as created by this act.
709 The Commission may consider targeted marketing efforts, engagement and communication with
710 groups and programs that serve environmental justice communities, requiring utilities to ensure that a
711 certain percentage of customers participating in a program are members of an environmental justice
712 community, requiring utilities to exempt members of environmental justice communities from all or a
713 portion of the special rate charges for program participation, and requiring utilities to ensure that
714 terms of cost recovery for members of environmental justice communities do not exceed a certain
715 percentage of the estimated life span of the installed upgrade. Should the Commission promulgate rules
716 based on these considerations, it shall direct affected utilities to create a fund or to identify and use
717 other sources of funding to pay for repair or remediation of structural or health and safety deficiencies
718 that prevent implementation of energy upgrades to buildings that house or serve environmental justice
719 communities. In rules promulgated pursuant to the first and third enactments of this act, the
720 Commission may allow affected utilities to recover from customers the cost of funding the repairs and
721 remediation that may be required for energy upgrades to buildings that house or serve environmental
722 justice communities.