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HOUSE BILL NO. 760

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on ________________)

(Patron Prior to Substitute—Delegate Runion)

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to income tax; energy-efficient new homes tax credits.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Energy-efficient new homes tax credits.

A. For purposes of this section:

"Construction" means the construction of new, single-family residential homes.

"Eligible contractor" means the person that (i) constructed the energy-efficient home or highly energy-efficient home and owned the home during its construction or (ii) in the case of an energy-efficient home or highly energy-efficient home that is a manufactured home, the person that produced the home and owned the home during its production.

"Energy-efficient home" means a dwelling unit located in the Commonwealth, the construction of which is completed during the taxable year, that (i) is certified to meet the requirements of the U.S. Environmental Protection Agency's Energy Star New Homes Program as such program was in effect on January 1, 2026, or any successor program determined by the Administrator of the U.S. Environmental Protection Agency or (ii) is certified to have a maximum HERS index score, before any onsite power production, of 45 in climate zone 3A, 47 in climate zone 4A, and 51 in climate zone 5A.

"Entry-level home" means an energy-efficient home with a habitable square footage not in excess of 2,000 square feet.

"Habitable square footage" means the heated, finished square footage of living areas, excluding garages, carports, unfinished attics, unfinished basements, crawlspaces, decks, porches, and similar non-habitable spaces.

"Home energy rating system" or "HERS" means the energy rating index, as defined in the 2022 ANSI/RESNET/ICC 301 Standard for the Calculation and Labeling of the Energy Performance of Dwelling and Sleeping Units using an Energy Rating Index, developed by the Residential Energy Services Network.

"Move-up home" means an energy-efficient home with a habitable square footage greater than 2,000 square feet but not in excess of 2,600 square feet.

B. For taxable years beginning on and after January 1, 2026, but before January 1, 2033, an eligible contractor shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 (i) in an amount equal to $2,500 for each construction of an entry-level energy-efficient home and (ii) in an amount equal to $1,875 for each construction of a move-up energy-efficient home. Any eligible contractor entitled to a credit under this section may freely transfer, in whole or in part, an unused but otherwise allowable credit to another taxpayer. The transferee taxpayer shall apply the credit subject to the same limitations and carryforward provisions as the eligible contractor transferor. An eligible contractor shall not be allowed to claim more than $500,000 pursuant to this section in any taxable year for credits that such contractor has not fully transferred to another taxpayer.

C. The credit amounts provided under this section shall, beginning on January 1, 2027, and for each year thereafter, be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year, or (ii) zero.

D. The amount of the credit that may be claimed in any single taxable year shall not exceed the taxpayer's liability for taxes imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the credit is claimed, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next seven taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. The aggregate amount of credits allowable under this section shall not exceed $10 million per taxable year. Credits shall be allocated by the Department on a pro rata basis.

F. Notwithstanding any other provisions of state law, the value of any credit claimed pursuant to this section shall not be reduced, including by reason of adjustment, apportionment, or interaction with any other provision of this title.

G. Nothing in this section shall be construed as precluding any taxpayer from claiming any credit or incentive otherwise available under federal law or state program.

H. The Tax Commissioner shall, in consultation with the Department of Energy, develop guidelines for

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claiming the credit provided by this section and shall provide a simple electronic process for registration and tracking of transfers of credits provided pursuant to this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

I. Beginning on July 1, 2027, and on or before July 1 of each year thereafter, the Department shall publish a publicly available report for the preceding taxable year that includes the aggregate number of credits claimed for such preceding taxable year, including the total dollar amount, the count by entry-level and move-up tiers, and the distribution by each county within the Commonwealth in which such entry-level or move-up energy-efficient home was constructed and for which a credit was claimed by an eligible contractor pursuant to this section. Such report shall comply with the provisions of § 58.1-3 and shall not disclose any taxpayer identifying information.