

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 789

An Act to amend and reenact § 36-155 of the Code of Virginia and to amend the Code of Virginia by adding in Title 36 a chapter numbered 11, consisting of sections numbered 36-157 through 36-170, relating to the Housing Revitalization Zone Act.

[S 711]

Approved April 9, 2000

Be it enacted by the General Assembly of Virginia:

1. That § 36-155 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 36 a chapter numbered 11, consisting of sections numbered 36-157 through 36-170, as follows:

§ 36-155. Grants.

Except as otherwise provided in this chapter, money in the Fund shall be used to make grants to local governments to finance the acquisition, removal, rehabilitation, repair or demolition of derelict structures. *Fifty percent of all moneys received by local governments from the Fund shall be utilized in areas designated by the Governor pursuant to § 36-160 as housing revitalization zones.* No grant shall exceed ~~\$200,000~~ \$1,000,000. Each grant shall be conditioned upon a 100 percent match of funds by the local government. The Board shall develop guidelines for the administration of the grant program established by this chapter.

CHAPTER 11.

HOUSING REVITALIZATION ZONE ACT.

§ 36-157. Short title.

This chapter shall be known and may be cited as the "Housing Revitalization Zone Act."

§ 36-158. Definitions.

As used in this chapter:

"Based assessed value" means the assessed value of real estate within a housing revitalization zone as shown upon the records of the local assessing officer on January 1 of the year preceding the date of the designation of such zone.

"Business firm" means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth and subject to tax imposed under Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1.

"Department" means the Department of Housing and Community Development.

"Fund" means the Housing Revitalization Zone Fund.

"Housing revitalization zone" means an area declared by the Governor to be eligible for the benefits of this chapter.

"Housing unit" means any building, structure, or portion thereof, which is occupied as, or intended for occupancy as, a residence by one or more families.

"Local zone administrator" means the chief executive of the county, city, or town in which a housing revitalization zone is located, or his designee.

"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development.

"Qualified business firm" means a business firm designated as a qualified business firm by the Department pursuant to § 36-165.

"Qualified owner occupant" means the owner of a housing unit who also uses the housing unit as the owner's residence, and who is designated as a qualified owner occupant pursuant to § 36-165.

§ 36-159. Administration.

The Department shall administer this chapter and shall have the following powers and duties:

1. To establish the process for determining what areas qualify as housing revitalization zones. Such criteria shall be the minimum required for implementation of the purpose of this chapter;

2. To monitor the implementation and operation of this chapter;

3. To conduct a continuing evaluation program of housing revitalization zones;

4. To assist counties, cities and towns in obtaining the reduction of regulations within housing revitalization zones; and

5. To administer and enforce the regulations promulgated by the Board of Housing and Community Development.

§ 36-160. Housing revitalization zone designation.

A. The governing body of any county, city or town may make written application to the Department

to have an area or areas declared to be a housing revitalization zone. Such application shall include a description of the location of the area or areas in question, and a general statement identifying proposed local incentives to complement the state incentives. Two or more adjacent jurisdictions may file a joint application for a housing revitalization zone lying in the jurisdictions submitting the application.

B. The Governor may approve, upon the recommendation of the Director of the Department, the designation of up to twenty areas as housing revitalization zones for a period of fifteen years. Any county, city, or town shall be eligible to apply for more than one housing revitalization zone designation; however, each county, city, and town shall be limited to a total of two housing revitalization zones. Any such area shall consist of contiguous United States census tracts or any portion thereof in accordance with the most current United States Census or with the most current data from the local planning district commission. Any such area seeking designation as a housing revitalization zone shall also meet at least one of the following criteria: (i) have per capita income below eighty percent of the median per capita income for the planning district or (ii) have a residential vacancy rate that is at least 120 percent of the average vacancy rate for the planning district. No more than ten percent of a locality's land area may be in a single housing revitalization zone.

§ 36-161. Expansion of housing revitalization zones.

Upon designation of an area as a housing revitalization zone, the local governing body may make written application to the Department to expand the area of the housing revitalization zone. Such application for expansion shall be considered by the Department in accordance with the requirements of §§ 36-160 and 36-162 and such regulations of the Department as may be applicable.

§ 36-162. Application review.

A. The Department shall review each application upon receipt and shall secure any additional information that the Department deems necessary for the purpose of determining whether the area described in the application qualifies to be declared a housing revitalization zone.

B. The Department shall complete review of the application within sixty days of the last date designated for receipt of an application. After review of the applications, the Director shall recommend to the Governor within thirty days those applications with the greatest potential for accomplishing the purpose of this chapter. If an application is denied, the governing body shall be informed of that fact together with the reasons for the denial.

§ 36-163. Sale of public land.

Upon designation of an area as a housing revitalization zone, the Commonwealth and any units of local government that own any land within the housing revitalization zone may make available for sale all land within the housing revitalization zone not designated or targeted for some public use with the condition that it be developed.

§ 36-164. Rules and regulations.

Rules and regulations prescribing procedures effectuating the purpose of this chapter shall be promulgated by the Board of Housing and Community Development in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.).

§ 36-165. Eligibility.

A. Any business firm may be designated a "qualified business firm" for purposes of this chapter if it undertakes, within a housing revitalization zone, the eligible construction or rehabilitation of a housing unit as described under § 36-166.

B. Any individual may be designated as a "qualified owner occupant" for purposes of this chapter if the individual undertakes within a housing revitalization zone the eligible construction or rehabilitation, as described under § 36-166, of a housing unit and uses such unit as his residence.

C. After designation as a qualified business firm or as a qualified owner occupant pursuant to this section, each business firm or owner occupant in a housing revitalization zone shall submit a statement or other form as required by the Department requesting the grants provided under this chapter for qualified zone improvements. Such a statement shall be accompanied by an approved form supplied by the Department and completed by an independent certified public accountant licensed by the Commonwealth which states that the business firm or owner occupant met the definition of a "qualified business firm" or of a "qualified owner occupant" and continues to meet the requirements for eligibility as a qualified business firm or qualified owner occupant in effect at the time of its designation. A copy of the statement submitted by each business firm or owner occupant to the Department shall be forwarded to the local zone administrator.

D. The form referred to in subsection C of this section, prepared by an independent certified public accountant licensed by the Commonwealth, shall be prima facie evidence of the eligibility of a business firm or owner occupant for the purposes of this section, but the evidence of eligibility shall be subject to rebuttal. The Department may at its discretion require any business firm or owner occupant to provide supplemental information regarding the firm's or individual's eligibility (i) as a qualified business firm or qualified owner occupant or (ii) for the grants claimed pursuant to this chapter.

§ 36-166. Housing revitalization zone grants.

A. As used in this section:

"Qualified zone improvements" means the amount properly chargeable to a capital account for improvements to rehabilitate or undertake construction on real property during the applicable year within a housing revitalization zone, provided that the total amount of such improvements equals or exceeds (i) for a qualified business firm, an investment of \$25,000 in rehabilitation expenses on each housing unit, \$50,000 in new construction expenses for each single family housing unit, or \$40,000 for each multifamily housing unit or (ii) for a qualified owner occupant, an investment of \$12,500 in rehabilitation expenses or \$50,000 in new construction expenses for each housing unit. Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, plumbing, utility, or electrical improvements necessary to rehabilitate or construct a building for residential use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements. Qualified zone improvements shall also include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning, and cleanup.

Qualified zone improvements shall not include:

- 1. The cost of acquiring any real property or building.*
- 2. (i) The cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; or (vii) outbuildings.*

B. Beginning on and after July 1, 2000, a qualified business firm or qualified owner occupant may be allowed a grant from the Housing Revitalization Zone Fund for making qualified zone improvements. The grant amount shall not exceed thirty percent of the qualified zone improvements; however, in no event shall the total grants paid to a qualified business firm or qualified owner occupant exceed \$50,000 per housing unit for qualified zone improvements made during the period in which such area of a county, city, or town is designated as a housing revitalization zone. Additionally, the total grants paid to a qualified business firm for a housing complex with five or more attached housing units may not exceed \$150,000 over such period.

C. Local governments shall certify that the zone improvements made within housing revitalization zones within their jurisdictions comply with all locally adopted plans and ordinances.

§ 36-167. Housing Revitalization Zone Fund established.

There shall be set apart as a permanent and perpetual fund, known as the "Housing Revitalization Zone Fund," sums appropriated to the Fund by the General Assembly, all income from investments of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private. The Fund is created for the purpose of making grant payments to qualified business firms and qualified owner occupants. The Fund shall be administered and managed by the Virginia Housing Development Authority, subject to the right of the Department to direct the distribution of grants from the Fund for the payment of grants awarded by the Department to qualified business firms and qualified owner occupants.

§ 36-168. Local incentives.

A. In making an application for designation as a housing revitalization zone, the applying locality or localities may propose local tax incentives, including, but not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) partial exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221; and (iv) use of public funds to improve living conditions in housing revitalization zones such as code enforcement, public safety, and infrastructure improvements. The extent and duration of such incentive proposals shall conform to the requirements of the Constitution of Virginia and the Constitution of the United States. In making application for designation as a housing revitalization zone, such application may also contain proposals for regulatory flexibility, including, but not limited to: (i) special zoning districts; (ii) permit process reform; (iii) exemptions from local ordinances as permitted under the Constitution of Virginia and the Code of Virginia; and (iv) other public incentives proposed in the locality's application, which shall be binding upon the locality upon designation of the housing revitalization zone.

B. A locality may establish eligibility criteria for local incentives for qualified business firms and qualified owner occupants that are the same as, or more stringent than, the criteria for eligibility for grants or other benefits provided by this chapter.

§ 36-169. Review and termination of housing revitalization zone.

A. Upon designation of an area as a housing revitalization zone, the proposals for regulatory flexibility, tax incentives and other public incentives specified in this chapter shall be binding upon the local governing body to the extent and for the period of time specified in the application for zone designation. If the local governing body is unable or unwilling to provide the regulatory flexibility, tax incentives or other public incentives as proposed in the application for zone designation, the housing revitalization zone shall terminate. Notwithstanding the provisions of § 36-166, qualified business firms and qualified owner occupants located in such housing revitalization zone shall be eligible to receive the grants provided by this chapter for a period of two years after the zone designation has terminated.

No business firm or owner occupant may become a qualified business firm or qualified owner occupant after the date of zone termination. The governing body may amend its application with the approval of the Department, provided the governing body proposes an incentive equal to or superior to the unamended application.

B. The Department shall periodically review the effectiveness of the grant program and local incentives in increasing investment in each housing revitalization zone, and shall annually report its findings to the Senate Finance Committee, the Senate Committee on Commerce and Labor, the House Finance Committee, and the House Committee on Labor and Commerce. If no business firms or owner occupants in a housing revitalization zone have qualified for grants provided pursuant to this chapter within a five-year period, the Department shall terminate that housing revitalization zone designation.

§ 36-170. Incremental revenues appropriated to housing revitalization zone.

Any county, city, or town in which a housing revitalization zone is located shall, within ninety days of the designation of a housing revitalization zone within such county, city, or town, adopt an ordinance providing that all or a specified percentage of the real estate taxes in such zone shall be assessed, collected, and allocated in the following manner:

1. The local assessing officer shall record in the appropriate books both the base assessed value and the current assessed value of the real estate in the zone.

2. Real estate taxes attributable to the lower of the current assessed value or base assessed value of real estate located in a housing revitalization zone shall be allocated by the treasurer or director of finance as they would be in the absence of such ordinance.

3. At least twenty-five percent of the increase in real estate taxes attributable to the difference between (i) the current assessed value of such property and (ii) the base assessed value of such property shall be appropriated by the county, city, or town within such housing revitalization zone to provide enhanced tax incentives, law-enforcement and other governmental services, including financing transportation projects, as may be appropriate to secure and to promote private investment in such zone. For purposes of determining such increase, additional revenues resulting from an increase in the tax rate on real estate after the designation of such housing revitalization zone shall not be included. Such ordinance shall provide that the appropriations mandated by this section shall be made for such increase in taxes in the county, city, or town's taxable year immediately following the payment of any grants under this chapter. If the grants authorized by this section are not paid to qualified business firms or qualified owner occupants for a particular calendar year, such county, city, or town shall not be required to appropriate such increase in taxes in its immediately following taxable year.

2. That the Virginia Housing Development Authority shall explore methods of providing financing assistance to qualified business firms and qualified owner occupants as defined in this act.