

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section*  
 3 *numbered 58.1-339.8 and in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12,*  
 4 *relating to income tax credits.*

5 [H 1306]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a**  
 9 **section numbered 58.1-339.8 and in Article 13 of Chapter 3 of Title 58.1 a section numbered**  
 10 **58.1-439.12 as follows:**

11 *§ 58.1-339.8. Riparian forest buffer protection for waterways tax credit.*

12 *A. For all taxable years beginning on or after January 1, 2000, any individual who owns land*  
 13 *abutting a waterway on which timber is harvested, and who forbears harvesting timber on certain*  
 14 *portions of the land near the waterway, shall be allowed a credit against the tax imposed by § 58.1-320*  
 15 *as set forth in this section. For purposes of this section, "waterway" means any perennial or intermittent*  
 16 *stream of water depicted on the then most current United States Geological Survey topographical map.*

17 *B. The State Forester shall develop guidelines setting forth the general requirements of qualifying for*  
 18 *the credit, including the land for which credit is eligible. To qualify for the credit, the individual must*  
 19 *comply with an individualized Forest Stewardship Plan to be certified by the State Forester. In no event*  
 20 *shall the distance from such waterway to the far end of the timber buffer, on which the tax credit is*  
 21 *based, be less than thirty-five feet or more than three hundred feet. The minimum duration for the buffer*  
 22 *shall be fifteen years. The State Forester shall check each certified buffer annually to verify its*  
 23 *continued compliance with the taxpayer's Forest Stewardship Plan. If the State Forester discovers that*  
 24 *the timber in that portion of the land retained as a buffer has been harvested prior to the end of the*  
 25 *required term, written notification of such violation shall be delivered to the taxpayer by the State*  
 26 *Forester.*

27 *C. The tax credit shall be an amount equal to twenty-five percent of the value of timber in that*  
 28 *portion of the land retained as a buffer. The amount of such credit shall not exceed \$17,500 or the total*  
 29 *amount of the tax imposed by this chapter, whichever is less, in the year that the timber outside the*  
 30 *buffer was harvested. If the amount of the credit exceeds the taxpayer's liability for such taxable year,*  
 31 *the excess may be carried over for credit against income taxes in the next five taxable years until the*  
 32 *total amount of the tax credit has been taken. For purposes of this section, the amount of any credit*  
 33 *attributable to qualified buffer protection by a partnership or electing small business corporation (S*  
 34 *Corporation) shall be allocated to the individual partners or shareholders in proportion to their*  
 35 *ownership or interest in the partnership or S Corporation. The land which is the subject of a tax credit*  
 36 *under this section cannot again be the subject of a tax credit under this section for at least fifteen years.*  
 37 *The State Forester shall check each certified buffer annually to verify its continued compliance with the*  
 38 *taxpayer's Forest Stewardship Plan. If the State Forester discovers that the timber in that portion of the*  
 39 *land retained as a buffer has been harvested prior to the end of the required term, written notification*  
 40 *of such noncompliance shall be delivered to the taxpayer by the State Forester.*

41 *D. To claim the credit authorized under this section, the taxpayer shall apply to the State Forester,*  
 42 *who shall determine the amount of credit, using the assessed value of the timber in that portion of land*  
 43 *retained as a buffer, and issue a certificate thereof to the taxpayer. The taxpayer shall attach the*  
 44 *certificate to the Virginia tax return on which the credit is claimed. In the event the timber in that*  
 45 *portion of land retained as a buffer is harvested by the taxpayer or any other person prior to the end of*  
 46 *the term originally established in the taxpayer's individualized Forest Stewardship Plan, the taxpayer*  
 47 *shall repay the tax credit claimed. Within sixty days after receiving written notification from the State*  
 48 *Forester that the taxpayer's plan no longer qualifies for the credit, repayment shall be made to the*  
 49 *Department of Taxation. If repayment is not made within the sixty-day period, the State Forester shall*  
 50 *notify the locality's Commonwealth Attorney for assistance in collecting the funds from the taxpayer.*

51 *§ 58.1-439.12. Riparian forest buffer protection for waterways tax credit.*

52 *A. For all taxable years beginning on or after January 1, 2000, any corporation that owns land*  
 53 *abutting a waterway on which timber is harvested, and that forbears harvesting timber on certain*  
 54 *portions of the land near the waterway, shall be allowed a credit against the tax imposed by § 58.1-400*  
 55 *as set forth in this section. For purposes of this section, "waterway" means any perennial or intermittent*  
 56 *stream of water depicted on the then most current United States Geological Survey topographical map.*

57 *B. The State Forester shall develop guidelines setting forth the general requirements of qualifying for*  
58 *the credit, including the land for which credit is eligible. To qualify for the credit the corporation must*  
59 *comply with an individualized Forest Stewardship Plan to be certified by the State Forester. In no event*  
60 *shall the distance from such waterway to the far end of the timber buffer, on which the tax credit is*  
61 *based, be less than thirty-five feet or more than three hundred feet. The minimum duration for the buffer*  
62 *shall be fifteen years. The State Forester shall check each certified buffer annually to verify its*  
63 *continued compliance with the taxpayer's Forest Stewardship Plan. If the State Forester discovers that*  
64 *the timber in that portion of the land retained as a buffer has been harvested prior to the end of the*  
65 *required term, written notification of such noncompliance shall be delivered to the taxpayer by the State*  
66 *Forester.*

67 *C. The tax credit shall be an amount equal to twenty-five percent of the value of timber in that*  
68 *portion of land retained as a buffer. The amount of such credit shall not exceed \$17,500 or the total*  
69 *amount of the tax imposed by this chapter, whichever is less, in the year that the timber outside the*  
70 *buffer was harvested. If the amount of the credit exceeds the taxpayer's liability for such taxable year,*  
71 *the excess may be carried over for credit against income taxes in the next five taxable years until the*  
72 *total amount of the tax credit has been taken.*

73 *D. To claim the credit authorized under this section, the taxpayer shall apply to the State Forester,*  
74 *who shall determine the amount of credit, using the assessed value of the timber in that portion of land*  
75 *retained as a buffer, and issue a certificate thereof to the taxpayer. The taxpayer shall attach the*  
76 *certificate to the Virginia tax return on which the credit is claimed. In the event the timber in that*  
77 *portion of land retained as a buffer is harvested by the taxpayer or any other person prior to the end of*  
78 *the term originally established in the taxpayer's individualized Forest Stewardship Plan, the taxpayer*  
79 *shall repay the tax credit claimed. Within sixty days after receiving written notification from the State*  
80 *Forester that the taxpayer's plan no longer qualifies for the credit, repayment shall be made to the*  
81 *Department of Taxation. If repayment is not made within the sixty-day period, the State Forester shall*  
82 *notify the locality's Commonwealth Attorney for assistance in collecting the funds from the taxpayer.*