

000355540

SENATE BILL NO. 711

Offered January 24, 2000

A BILL 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 36-171, relating to the Housing Revitalization Zone Act.

Patrons—Watkins, Byrne, Colgan, Edwards, Hanger, Lambert, Marsh, Norment, Stosch, Ticer, Whipple and Williams; Delegates: Baskerville, Hall, Jones, D.C. and McEachin

Referred to Committee on General Laws

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 36-171, 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 monies in the fund which are approved as grants to local governments 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:

"Business firm" means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this 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.

"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.

"Owner occupant" means the owner of a housing unit who also claims the housing unit as the owner's residence.

"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.

§ 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

INTRODUCED

SB711

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

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

76 § 36-161. Expansion of housing revitalization zones.

77 Upon designation of an area as a housing revitalization zone, the local governing body may make
78 written application to the Department to expand the area of the housing revitalization zone. Such
79 application for expansion shall be considered by the Department in accordance with the requirements of
80 §§ 36-160 and 36-162 and such regulations of the Department as may be applicable.

81 § 36-162. Application review.

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

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

90 § 36-163. Sale of public land.

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

95 § 36-164. Rules and regulations.

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

99 § 36-165. Eligibility.

100 A. Any business firm may be designated a "qualified business firm" for purposes of this chapter if it
101 undertakes, within a housing revitalization zone, the eligible construction or rehabilitation of a housing
102 unit.

103 B. Any individual may be designated as a "qualified owner occupant" for purposes of this chapter if
104 the individual undertakes within a housing revitalization zone the eligible construction or rehabilitation
105 of a housing unit and claims it as his residence.

106 C. After designation as a qualified business firm or as a qualified owner occupant pursuant to this
107 section, each business firm or owner occupant in a housing revitalization zone shall submit annually to
108 the Department a statement requesting the tax incentives provided in § 36-166. Such a statement shall
109 be accompanied by an approved form supplied by the Department and completed by an independent
110 certified public accountant licensed by the Commonwealth which states that the business firm or owner
111 occupant met the definition of a "qualified business firm" or of a "qualified owner occupant" and
112 continues to meet the requirements for eligibility as a qualified business firm or qualified owner
113 occupant in effect at the time of its designation. A copy of the statement submitted by each business firm
114 or owner occupant to the Department shall be forwarded to the zone administrator.

115 D. The form referred to in subsection C of this section, prepared by an independent certified public
116 accountant licensed by the Commonwealth, shall be prima facie evidence of the eligibility of a business
117 firm or owner occupant for the purposes of this section, but the evidence of eligibility shall be subject to
118 rebuttal. The Department or the Department of Taxation or State Corporation Commission, as
119 applicable, may at its discretion require any business firm or owner occupancy to provide supplemental
120 information regarding the firm's or individual's eligibility (i) as a qualified business firm or qualified
121 owner occupant or (ii) for a tax credit claimed pursuant to this chapter.

§ 36-166. Housing revitalization zone real property investment tax credit.

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 taxable 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, \$60,000 in new 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 \$60,000 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.

"Real property investment tax credit" means a credit against the taxes imposed by 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.

B. For all taxable years beginning on and after July 1, 2000, but before July 1, 2015, a qualified business firm or qualified owner occupant shall be allowed tax credit as set forth in this section.

C. For any qualified business firm or qualified owner occupant, a real property investment tax credit shall be allowed in an amount equaling thirty percent of the qualified zone improvements. Any tax credit granted pursuant to this subsection is refundable; however, in no event shall the cumulative credit allowed to a qualified business firm or qualified owner occupant exceed \$50,000 per housing unit over fifteen years, or, for a housing complex with five or more attached housing units, it may not exceed \$150,000 over fifteen years.

D. The total amount of tax credits granted under this section shall not exceed \$10 million statewide in each fiscal year.

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

F. The Department shall certify the nature and amount of qualified zone improvements and qualified zone investments eligible for a real property investment tax credit in any taxable year. Only qualified zone improvements and qualified zone investments that have been properly certified shall be eligible for the credit. Any form filed with the Department of Taxation or State Corporation Commission for the purpose of claiming the credit shall be accompanied by a copy of the certification furnished to the taxpayer by the Department. Any certification by the Department pursuant to this section shall not impair the authority of the Department of Taxation or State Corporation Commission to deny in whole or in part any claimed tax credit if the Department of Taxation or State Corporation Commission determines that the taxpayer is not entitled to such tax credit. The Department of Taxation or State Corporation Commission shall notify the Department in writing upon determining that a taxpayer is ineligible for such tax credit.

G. In the case of a partnership, limited liability company or S corporation, the term "qualified business firm" as used in this section means the partnership, limited liability company or S corporation. Credits granted to a partnership, limited liability company or S corporation shall be passed through to the partners, members or shareholders, respectively.

H. In the first taxable year only, the credit provided in this section shall be prorated equally against the taxpayer's estimated payments made in the third and fourth quarters and the final payment, if such taxpayer is required to make quarterly payments.

§ 36-167. Policies and procedures for reservation and allocation of tax credits.

A. Qualified business firms and qualified owner occupants shall be eligible to receive any tax credit provided under § 36-166 in any year if, and to the extent, they reserve the tax credit through the Department.

B. In order to ensure that the limited amounts of tax credits available under § 36-166 in any year are not oversubscribed and are allocated in an orderly and equitable manner, the Board of Housing

183 and Community Development shall establish policies and procedures for the reservation of tax credits by
184 qualified business firms and qualified owner occupants. Such policies and procedures shall provide (i)
185 requirements for applying for reservations of tax credits; (ii) a system for allocating available amount of
186 tax credits among eligible applicants; (iii) a procedure for the cancellation and reallocation of tax
187 credit reservations allocated to applicants who, after reserving tax credits, have been determined to be
188 ineligible for all or a portion of the tax credits reserved.

189 C. The Department shall apply such policies and procedures in approving applications for
190 reservations of such tax credits to qualified business firms and qualified owner occupants.

191 D. Actions of the Department relating to the approval or denial of applications for reservations for
192 tax credits under § 36-166 shall be exempt from the provisions of the Administrative Process Act
193 pursuant to subdivision B 4 of § 9-6.14:4.1.

194 § 36-168. Confidentiality of information; penalty.

195 Except in accordance with proper judicial order or as otherwise provided by law, any employee or
196 former employee of the Department shall not divulge any information acquired by him in the
197 performance of his duties with respect to the tax liability, employment, property, or income of any
198 business firm or owner occupant submitted to the Department pursuant to this chapter. Any person
199 violating this section shall be guilty of a Class 2 misdemeanor. However, the provisions of this section
200 shall not be applicable to:

201 1. Acts performed or words spoken or published in the line of duty under law;

202 2. Inquiries and investigations to obtain information as to the implementation of this chapter by a
203 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
204 its study, provided that any such information shall be privileged;

205 3. Disclosures of information to the Department of Taxation or the State Corporation Commission as
206 may be required to implement the provisions of this chapter; or

207 4. The publication of statistics so classified as to prevent the identification of particular business
208 firms.

209 § 36-169. Local incentives.

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

221 B. A locality may establish eligibility criteria for local incentives for business firms that are the same
222 as, or more stringent than, the criteria for eligibility for tax credits or other benefits provided by this
223 chapter.

224 § 36-170. Review and termination of housing revitalization zone.

225 A. Upon designation of an area as a housing revitalization zone, the proposals for regulatory
226 flexibility, tax incentives and other public incentives specified in this chapter shall be binding upon the
227 local governing body to the extent and for the period of time specified in the application for zone
228 designation. If the local governing body is unable or unwilling to provide the regulatory flexibility, tax
229 incentives or other public incentives as proposed in the application for zone designation, the housing
230 revitalization zone shall terminate. Qualified business firms and qualified owner occupants located in
231 such housing revitalization zone shall be eligible to receive the state tax incentives provided by this
232 chapter even though the zone designation has terminated. No business firm or owner occupant may
233 become a qualified business firm or qualified owner occupant after the date of zone termination. The
234 governing body may amend its application with the approval of the Department, provided the governing
235 body proposes an incentive equal to or superior to the unamended application.

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

242 § 36-171. Expiration of chapter.

243 The provisions of this chapter shall expire on July 1, 2016, unless extended by an act of the General
244 Assembly.