

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 575

An Act to amend the Code of Virginia by adding in Chapter 50 of Title 9 sections numbered 9-385.1 and 9-389.1, relating to the Tobacco Indemnification and Community Revitalization Commission; administration of indemnification and economic development payments.

[H 2181]

Approved March 26, 2001

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 50 of Title 9 sections numbered 9-385.1 and 9-389.1 as follows:

§ 9-385.1. Payments from the Fund; transfer and recovery of payments; limitation on claims.

A. No payments made, or otherwise payable, to tobacco farmers under this chapter shall be transferable or assignable, at law or in equity, except by testate or intestate succession, or by a property settlement agreement, separation agreement or judicial decree in a separation or divorce proceeding. Except in actions initiated by or on behalf of the Commission, no payments made, or otherwise payable, to tobacco farmers under this chapter shall be subject to execution, levy, attachment, garnishment, or other legal process until such money has been paid or distributed. The Commonwealth, and any department, agency or institution thereof, the Commission, and their agents and employees, shall not be a party or otherwise subject to such execution, levy, attachment, garnishment, or other legal process.

B. Grants, loans or other distributions paid or payable from the Fund to promote economic growth and development shall not be subject to execution, levy, attachment, garnishment or other legal process, except in actions initiated by or on behalf of the Commission. Such grants, loans or other distributions shall only be transferable or assignable in accordance with terms established by the Commission.

C. Any payment from the Fund that is later determined to have been made wrongly or erroneously may be recovered by the Commission either by way of a credit or offset against any future payments otherwise distributable to the recipient or by judicial action. Prior to making any such determination, the Commission shall give the recipient reasonable prior written notice and an opportunity to be heard in accordance with rules established by the Commission.

D. In addition to any other penalties provided by law, any person requesting or applying for a payment from the Fund who knowingly makes any false, fictitious or fraudulent statements or representations or otherwise knowingly provides any false, fictitious or fraudulent information to the Commission shall forfeit his opportunity or eligibility to receive any payments from the Fund.

E. Any eligible person who fails, for any reason whatsoever, to apply for any indemnification payment determined to be distributable by the Commission by the deadline established by the Commission or its Executive Director for the receipt of applications or verification forms shall be forever barred from receiving such payment unless the person makes appropriate written application to the Commission that is received within one year of the established deadline. At the end of such one-year period, no action shall lie against the Fund or the Commission for such payments to the person from the Fund.

F. All payments made or eligible to be made under this chapter shall be deemed to be granted and to be held subject to the provisions of this chapter and any amending or repealing act that may hereafter be passed, and no person shall have any claim for compensation, or otherwise, by reason of his payments or payment eligibility being affected in any way by any amending or repealing act.

§ 9-389.1. Confidentiality of information.

A. The Commission shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning tobacco farmers, including, but not limited to, names, addresses and payment information. The Commission may require any tobacco farmer or other applicant for payments from the Fund to provide his social security or taxpayer identification number.

B. Notwithstanding the foregoing, personal and financial information supplied to or maintained by the Commission relating to tobacco farmers may be used, exchanged and disclosed at the Commission's discretion as may be necessary or appropriate to make payments under, administer or enforce this chapter and related state and federal laws, any other state or federal tobacco indemnification or loss assistance program or a national tobacco community trust fund.

C. Nothing in this section shall prohibit the Commission, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information or the sum of money received by a particular recipient.

D. Personal and financial information supplied by or maintained on persons or entities applying for

or receiving distributions from the Fund for economic growth and development, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.1-340.1 et seq.). The provisions of that Act applicable to records or meetings of the Virginia Economic Development Partnership or other state or local economic development entities shall apply mutatis mutandis to the Commission.

E. The provisions of this section shall also apply to any department, agency, institution, political subdivision or employee of the Commonwealth or a political subdivision that receives personal or financial information from the Commission in order to process checks for payments from the Fund or to assist the Commission with the administration and enforcement of this chapter.

2. That an emergency exists and this act is in force from its passage.