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SENATE BILL NO. 1214
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Finance
on February 1, 2001)
(Patron Prior to Substitute—Senator Whipple)
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A BILL to amend and reenact §§ 63.1-323 and 63.1-325.2 of the Code of Virginia relating to neighborhood assistance programs; tax credits.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-323 and 63.1-325.2 of the Code of Virginia are amended and reenacted as follows:

§ 63.1-323. Proposals; regulations; tax credits authorized; amount for programs.

A. Any neighborhood organization may submit a proposal to the Commissioner of Social Services or his designee requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. The proposal shall set forth the program to be conducted by the neighborhood organization, the impoverished people to be assisted, the estimated amount to be donated to the program and the plans for implementing the program.

B. The State Board of Social Services is hereby authorized to promulgate regulations for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations shall contain a requirement that an annual audit be provided by the neighborhood organization as a prerequisite for approval. Such regulations shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations shall also provide that at least ten percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than ten percent of the available amount of tax credits, the unallocated portion of such ten percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner of Social Services or his designee approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or his designee.

D. The total amount of tax credits granted for programs approved under this chapter for each fiscal year shall not exceed eight million dollars*, except as provided in § 63.1-325.2*; however, $2,750,000 shall be allocated to education programs conducted by neighborhood organizations. Such allocation of tax credits to education programs shall constitute the minimum amount of tax credits to be allocated to education programs. However, if the amount of tax credits requested by neighborhood organizations for qualified education programs is less than $2,750,000, the balance of such amount shall be allocated to other types of qualified programs. Tax credits shall not be authorized after fiscal year ~~2002~~ *2004*.

§ 63.1-325.2. Donations by individuals.

A. Notwithstanding any provision of this chapter limiting eligibility for tax credits, an individual making a monetary donation to a neighborhood organization approved under this chapter shall be eligible for a credit against taxes imposed by § 58.1-320 *as provided in this section. Such credit shall be reserved for use by the individual against income taxes imposed pursuant to § 58.1-320 if the individual reserves the use of such tax credit in accordance with policies and procedures for the reservation of tax credits prescribed by the Department of Social Services.*

B. ~~Notwithstanding any provision of this chapter specifying the amount of a tax credit, a tax credit issued~~ *The tax credit reserved* to an individual making a monetary donation to an approved project shall be equal to *forty-five percent of such* ~~the amount of the~~ monetary donation ~~and no tax credit for a donation of less than fifty dollars nor in excess of $200 shall be granted per return per taxable year~~; *however, tax credits shall not be reserved for any monetary donation less than $900 for a taxable year and no more than $750 shall be reserved as a tax credit per return per taxable year.* ~~Any tax credit not usable for the taxable year the donation was made may be carried over to the extent usable for the next five succeeding years or until the full credit has been utilized, whichever is sooner.~~

C. ~~An individual shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization approved under this chapter are available.~~ *Up to one million dollars in tax credits may be approved for reservation by the Department of Social Services in each fiscal year under this section. In order to ensure that the limited amounts of tax credits available under this section in any fiscal year are not oversubscribed and are allocated in an orderly and equitable manner, the Department of Social Services shall establish policies and procedures for the*

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60 *reservation of tax credits under this section. Such policies and procedures shall provide (i) requirements*
61 *for applying for reservations of tax credits; (ii) a system for allocating available amount of tax credits*
62 *among such eligible individuals; (iii) a method for carrying forward eligibility for tax credits to*
63 *subsequent periods if such individual does not obtain a reservation of the tax credit or any portion*
64 *thereof for which he is eligible in any year as the result of the oversubscription of tax credits; (iv)*
65 *priorities for allocating reservations to individuals whose eligibility for reservations of tax credits were*
66 *carried forward from a preceding year but who did not receive a credit to which they were otherwise*
67 *eligible; and (v) a procedure for the cancellation and reallocation of tax credit reservations allocated to*
68 *eligible individuals who, after reserving tax credits, have been determined to be ineligible for all or a*
69 *portion of the tax credits reserved.*
70 *D. The amount of credit allowed pursuant to this section, if such credit has been reserved for an*
71 *individual, shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable*
72 *year may be carried over for credit against the individual's income taxes until the earlier of (i) the full*
73 *amount of the credit is used or (ii) the expiration of the fifth taxable year after the taxable year in*
74 *which the tax credit has been reserved for such individual. If an individual that is subject to the tax*
75 *limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of*
76 *the Code of Virginia, or has a credit carryover from a preceding taxable year, such individual shall be*
77 *considered to have first utilized any credit allowed that does not have a carryover provision, and then*
78 *any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit*
79 *allowed pursuant to this section.*
80 *E. Actions of the Department of Social Services relating to the approval or denial of reservations for*
81 *tax credits shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision*
82 *B. 4. of § 9-6.14:4.1.*
83 *F. The Commissioner of the Department of Social Services shall certify to the Commissioner of the*
84 *Department of Taxation the applicability of the tax credit provided herein for an individual against any*
85 *individual income tax due.*
86 *G. The Department of Social Services shall not reserve tax credits after fiscal year 2004.*
87 **2. That the provisions of this act shall be effective for all taxable years beginning on or after**
88 **January 1, 2001.**
89 **3. That the Department of Social Services shall promulgate regulations in accordance with the**
90 **Administrative Process Act (§ 9-6.14:1 et seq.), for purposes of carrying out the provisions of this**
91 **act.**