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HOUSE BILL NO. 3036

Offered January 11, 2007

A BILL to amend and reenact § 59.1-548 of the Code of Virginia, relating to enterprise zone real property investment grants.

Patrons—McClellan and O'Bannon

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 59.1-548 of the Code of Virginia is amended and reenacted as follows:**

§ 59.1-548. Enterprise zone real property investment grants.

A. As used in this section:

"Facility" means a complex of buildings, co-located at a single physical location within an enterprise zone, all of which are necessary to facilitate the conduct of the same trade or business. This definition applies to new construction as well as to the rehabilitation and expansion of existing structures.

"Mixed use" means a building incorporating residential uses in which a minimum of ~~30~~ 20 percent of the useable floor space will be devoted to commercial, office or industrial use.

"Qualified real property investment" means the amount properly chargeable to a capital account for improvements to rehabilitate, expand or construct depreciable real property placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$50,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$250,000 with respect to a single building or a facility in the case of new construction. Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.

Qualified real property investment shall not include:

1. The cost of acquiring any real property or building.

2. Other acquisition costs including: (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, 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; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer system; and (x) roads.

3. The basis of any property: (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 was previously granted; (iii) which was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iv) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014 (a).

"Qualified zone investor" means an owner or tenant of real property located within an enterprise zone who expands, rehabilitates or constructs such real property for commercial, industrial or mixed use. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the property for which the tenant holds a valid lease.

B. For any qualified zone investor making less than \$2 million in qualified real property investment, a real property investment grant shall be allowed in an amount equaling 30 percent of the amount of qualified real property investment not to exceed \$125,000 within any five-year period for any building or facility. For any qualified zone investor making \$2 million or more in qualified real property investments, a real property investment grant shall be allowed in an amount equaling 30 percent of the amount of qualified real property investment not to exceed \$250,000 within any five-year period for any building or facility.

C. A qualified zone investor shall apply for a real property investment grant in the calendar year following the year in which the property was placed in service. Real property investments that were

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59 placed in service in calendar year 2004 that were not eligible to submit a tax credit request as a small
60 qualified zone resident pursuant to former § 59.1-280.1 because of the timing of their tax year may
61 apply for a real property investment grant in 2006.
62 **2. That the provisions of this act shall be applicable to properties otherwise qualifying for real**
63 **property investment grants pursuant to § 59.1-548 of the Code of Virginia placed in service on or**
64 **after July 1, 2007.**