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HOUSE BILL NO. 680

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact § 63.2-2002 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 3 of Title 58.1 an article numbered 13.2, consisting of sections numbered 58.1-439.18 through 58.1-439.24, and to repeal §§ 63.2-2000, 63.2-2001, and 63.2-2003 through 63.2-2006 of the Code of Virginia, relating to the Neighborhood Assistance Act tax credit.*

Patrons—Hull and Hall

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-2002 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 58.1 an article numbered 13.2, consisting of sections numbered 58.1-439.18 through 58.1-439.24, as follows:

*Article 13.2.**Neighborhood Assistance Act Tax Credit.**§ 58.1-439.18. Definitions.**As used in this article:*

"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 subject to tax 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.

"Commissioner of the State Department of Social Services" means the Commissioner of the State Department of Social Services or his designee.

"Community services" means any type of counseling and advice, emergency assistance, medical care, provision of basic necessities, or services designed to minimize the effects of poverty, furnished primarily to impoverished people.

"Contracting services" means the provision, by a business firm licensed by the Commonwealth as a contractor under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, of labor or technical advice to aid in the development, construction, renovation, or repair of (i) homes of impoverished people or (ii) buildings used by neighborhood organizations.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who is impoverished.

"Housing assistance" means furnishing financial assistance, labor, material, or technical advice to aid the physical improvement of the homes of impoverished people.

"Impoverished people" means people in Virginia approved as such by the State Board of Social Services. Such approval shall be made on the basis of generally recognized low-income criteria used by federal and state agencies.

"Job training" means any type of instruction to an individual who is impoverished that enables him to acquire vocational skills so that he can become employable or able to seek a higher grade of employment.

"Neighborhood assistance" means providing community services, education, housing assistance, or job training.

"Neighborhood organization" means any local, regional or statewide organization whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of §§ 501 (c) (3) and 501 (c) (4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in § 36-3.

"Professional services" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and shall include, but shall not be limited to, the personal services rendered by medical doctors, dentists, architects, professional engineers, certified public accountants, and attorneys-at-law.

§ 58.1-439.19. Public policy; business firms; donations.

It is hereby declared to be public policy of the Commonwealth to encourage business firms to make

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59 donations to neighborhood organizations for the benefit of impoverished people.

60 § 58.1-439.20. Proposals; regulations; tax credits authorized; amount for programs.

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

66 B. The State Board of Social Services is hereby authorized to adopt regulations for the approval or
67 disapproval of such proposals by neighborhood organizations and for determining the value of the
68 donations. Such regulations shall contain a requirement that an annual audit be provided by the
69 neighborhood organization as a prerequisite for approval. Such regulations shall also provide that at
70 least 50 percent of the persons served by the neighborhood organization are impoverished people as
71 defined in § 58.1-439.18. Such regulations shall provide for the equitable allocation of the available
72 amount of tax credits among the approved proposals submitted by neighborhood organizations. The
73 regulations shall also provide that at least 10 percent of the available amount of tax credits each year
74 shall be allocated to qualified programs proposed by neighborhood organizations not receiving
75 allocations in the preceding year; however, if the amount of tax credits for qualified programs requested
76 by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the
77 unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to
78 qualified programs proposed by other neighborhood organizations.

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

84 D. The total amount of tax credits granted for programs approved under this article for each fiscal
85 year shall not exceed \$8 million; however, \$2,750,000 shall be allocated to education programs
86 conducted by neighborhood organizations. Such allocation of tax credits to education programs shall
87 constitute the minimum amount of tax credits to be allocated to education programs. However, if the
88 amount of tax credits requested by neighborhood organizations for qualified education programs is less
89 than \$2,750,000, the balance of such amount shall be allocated to other types of qualified programs.
90 Tax credits shall not be authorized after fiscal year 2009.

91 § 58.1-439.21. Tax credit; amount; limitation; carry over.

92 A. The Commissioner of the State Department of Social Services shall certify to the Department of
93 Taxation, or in the case of business firms subject to a tax under Article 1 (§ 58.1-2500 et seq.) of
94 Chapter 25 or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, to the State Corporation Commission, the
95 applicability of the tax credit provided herein for a business firm.

96 B. A business firm shall be eligible for a credit against the taxes imposed by Articles 2 (§ 58.1-320
97 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1
98 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in an amount
99 equal to 45 percent of the value of the money, property, professional services, and contracting services
100 donated by the business firm during its taxable year to neighborhood organizations for programs
101 approved pursuant to § 58.1-439.20. Notwithstanding any other law and for purposes of this article, the
102 value of a motor vehicle donated by a business firm shall, in all cases, be such value as determined for
103 federal income tax purposes using the laws and regulations of the United States relating to federal
104 income taxes. No tax credit of less than \$400 shall be granted for any donation, and a business firm
105 shall not be allowed a tax credit in excess of \$175,000 per taxable year. No tax credit shall be granted
106 to any business firm for donations to a neighborhood organization providing job training or education
107 for individuals employed by the business firm. Any tax credit not usable for the taxable year the
108 donation was made may be carried over to the extent usable for the next five succeeding taxable years
109 or until the full credit has been utilized, whichever is sooner. Credits granted to a partnership, electing
110 small business (Subchapter S) corporation, or limited liability company shall be allocated to their
111 individual partners, shareholders, or members, respectively, in proportion to their ownership or interest
112 in such business entities.

113 C. A tax credit shall be issued by the Commissioner of the State Department of Social Services to a
114 business firm upon receipt of a certification made by a neighborhood organization to whom tax credits
115 were allocated for an approved program pursuant to § 58.1-439.20. The certification shall identify the
116 type and value of the donation received and the business firm making the donation. A business firm
117 shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated
118 to the neighborhood organization for an approved project are available.

119 § 58.1-439.22. Donations of professional services.

120 A. A sole proprietor, partnership or limited liability company engaged in the business of providing

professional services shall be eligible for a tax credit under this article based on the time spent by the proprietor or a partner or member, respectively, who renders professional services to a program which has received an allocation of tax credits from the Commissioner of the State Department of Social Services. The value of the professional services, for purposes of determining the amount of the tax credit allowable, rendered by the proprietor or a partner or member to an approved program shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

B. A business firm shall be eligible for a tax credit under this article for the time spent by a salaried employee who renders professional services to an approved program. The value of the professional services, for purposes of determining the amount of tax credit allowed to a business firm for time spent by its salaried employee in rendering professional services to an approved project, shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered professional services to the approved program.

C. Notwithstanding any provision of this article limiting eligibility for tax credits to business firms, physicians, chiropractors, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of a clinic operated by an organization that has received an allocation of tax credits from the Commissioner of the State Department of Social Services and such clinic is organized in whole or in part for the delivery of health care services without charge, or to a clinic operated not for profit providing health care services for charges not exceeding those set forth in a scale prescribed by the State Board of Health pursuant to § 32.1-11 for charges to be paid by persons based upon ability to pay, shall be eligible for a tax credit pursuant to § 58.1-439.21 based on the time spent in providing health care services to patients of such clinic, regardless of where the services are delivered. The value of such services, for purposes of determining the amount of the tax credit allowable, rendered by the physician, chiropractor, dentist, nurse, nurse practitioner, physician assistant, optometrist, dental hygienist, professional counselor, clinical social worker, clinical psychologist, marriage and family therapist, physical therapist, or pharmacist, shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

§ 58.1-439.23. Donations of contracting services.

A. A sole proprietor, partnership or limited liability company engaged in the business of providing contracting services shall be eligible for a tax credit under this article based on the time spent by the proprietor or a partner or member, respectively, who renders contracting services to a program which has received an allocation of tax credits from the Commissioner of the State Department of Social Services. The value of the contracting services, for purposes of determining the amount of the tax credit allowable, rendered by the proprietor or a partner or member to an approved program shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$50 per hour.

B. A business firm shall be eligible for a tax credit under this article for the time spent by a salaried employee who renders contracting services to an approved program. The value of the contracting services, for purposes of determining the amount of tax credit allowed to a business firm for time spent by its salaried employee in rendering contracting services to an approved project, shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered contracting services to the approved program.

§ 58.1-439.24. Donations by individuals.

For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 58.1-439.18.

A. Notwithstanding any provision of this article limiting eligibility for tax credits, an individual making a monetary donation to a neighborhood organization approved under this article shall be eligible for a credit against taxes imposed by § 58.1-320 as provided in this section.

B. Notwithstanding any provision of this article specifying the amount of a tax credit, a tax credit issued to an individual making a monetary donation to an approved project shall be equal to 45 percent of such monetary donation; however, tax credits shall not be issued for any monetary donation less than \$500 in a taxable year and no more than \$50,000 in tax credit shall be issued to an individual or to married persons in a taxable year.

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 article are available.

D. The amount of credit allowed pursuant to this section, if such credit has been issued by the State Department of Social Services, shall not exceed the tax imposed pursuant to § 58.1-320 for such taxable year. Any credit not usable for the taxable year may be carried over for credit against the individual's income taxes until the earlier of (i) the full amount of the credit is used or (ii) the expiration of the fifth

182 taxable year after the taxable year in which the tax credit has been issued to such individual. If an
183 individual that is subject to the tax limitation imposed pursuant to this subsection is allowed another
184 credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding
185 taxable year, such individual shall be considered to have first utilized any credit allowed that does not
186 have a carryover provision, and then any credit that is carried forward from a preceding taxable year,
187 prior to the utilization of any credit allowed pursuant to this section.

188 E. A tax credit shall be issued by the Commissioner of the State Department of Social Services to an
189 individual only upon receipt of a certification made by a neighborhood organization to whom tax credits
190 were allocated for an approved program pursuant to § 58.1-439.20. The certification shall identify the
191 amount of the monetary donation received and the individual making the donation.

192 F. The tax credit allowed pursuant to this section shall be taken by the individual only to the extent
193 he has not claimed a deduction for such amount on his federal income tax return.

194 § 63.2-2002. Neighborhood Assistance Act.

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

200 B. The Board is hereby authorized to adopt regulations for the approval or disapproval of such
201 proposals by neighborhood organizations and for determining the value of the donations consistent with
202 the provisions, terms, and conditions of the Neighborhood Assistance Act Tax Credit (§ 58.1-439.18 et
203 seq.). Such regulations shall contain a requirement that an annual audit be provided by the neighborhood
204 organization as a prerequisite for approval. Such regulations shall also provide that at least 50 percent of
205 the persons served by the neighborhood organization are impoverished people as defined in § 63.2-2000.
206 Such regulations shall provide for the equitable allocation of the available amount of tax credits among
207 the approved proposals submitted by neighborhood organizations. The regulations shall also provide that
208 at least 10 percent of the available amount of tax credits each year shall be allocated to qualified
209 programs proposed by neighborhood organizations not receiving allocations in the preceding year;
210 however, if the amount of tax credits for qualified programs requested by such neighborhood
211 organizations is less than 10 percent of the available amount of tax credits, the unallocated portion of
212 such 10 percent of the available amount of tax credits shall be allocated to qualified programs proposed
213 by other neighborhood organizations. The Commissioner shall administer the Neighborhood Assistance
214 Act Tax Credit program.

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

219 D. ~~The As provided in § 58.1-439.20, the total amount of tax credits granted for programs approved~~
220 ~~under this chapter the Neighborhood Assistance Act Tax Credit for each fiscal year shall not exceed \$8~~
221 ~~million; however, \$2,750,000 shall be allocated to "education" programs conducted by "neighborhood~~
222 ~~organizations" as such terms are defined in § 58.1-439.18. Such allocation of tax credits to education~~
223 ~~programs shall constitute the minimum amount of tax credits to be allocated to education programs.~~
224 ~~However, if the amount of tax credits requested by neighborhood organizations for qualified education~~
225 ~~programs is less than \$2,750,000, the balance of such amount shall be allocated to other types of~~
226 ~~qualified programs. Tax credits shall not be authorized after fiscal year 2009.~~

227 2. That the provisions of this act shall become effective in due course. In addition, the provision in
228 subsection B of § 58.1-439.21 of the Code of Virginia providing that the value of a motor vehicle
229 donated by a business firm for a program approved pursuant to § 58.1-439.20 of the Code of
230 Virginia shall be such value as determined for federal income tax purposes shall become effective
231 for such donations made on or after July 1, 2008.

232 3. That the provisions of this act shall in no way affect any tax credit issued prior to July 1, 2008,
233 under the Neighborhood Assistance Act (§ 63.2-2000 et seq.) of the Code of Virginia.

234 4. That §§ 63.2-2000, 63.2-2001, and 63.2-2003 through 63.2-2006 of the Code of Virginia are
235 repealed.