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HOUSE BILL NO. 791

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend the Code of Virginia by adding in Title 36 a chapter numbered 1.6, consisting of sections numbered 36-55.65, 36-55.66, and 36-55.67, relating to the Fort Lee Housing Enterprise Zone.

Patron—Ingram

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 36 a chapter numbered 1.6, consisting of sections numbered 36-55.65, 36-55.66, and 36-55.67 as follows:

CHAPTER 1.6.

FORT LEE HOUSING ENTERPRISE ZONE.

§ 36-55.65. Creation of the Fort Lee Housing Enterprise Zone.

A. There is hereby established the Fort Lee Housing Enterprise Zone to encompass a 10-mile radius surrounding the Fort Lee military base located in Prince George County for the purpose of encouraging the construction, redevelopment, or rehabilitation of single- and multi-family housing in the zone.

B. A developer or investor who builds or substantially rehabilitates (i) a single-family home with a value of $250,000 or less or (ii) a multi-family housing project consisting of apartments with at least two bedrooms and renting for $750 or less per month, on property located within the Fort Lee Housing Enterprise Zone, shall be eligible for the Housing Enterprise Zone Tax Credit pursuant to § 36-55.67.

§ 36-55.66. Creation of local housing enterprise zone authorized.

A. The governing body of any city, county, or town, a part of whose territory is contained within the Fort Lee Housing Enterprise Zone, may establish, by ordinance, a housing enterprise zone for the purpose of providing incentives and regulatory flexibility to encourage the construction, redevelopment, or rehabilitation of single- and multi-family housing in such zone.

B. The incentives provided in a housing rehabilitation zone may include, but not be limited to, reduction of permit and user fees. Incentives established pursuant to this section may extend for a period of up to five years from the date of initial establishment of the housing enterprise zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

C. The regulatory flexibility provided in a housing rehabilitation zone may include, but not be limited to, the use of a special permit process, exemption from certain specified ordinances, and any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to five years.

§ 36-55.67. Housing Enterprise Zone Tax Credit.

A. For taxable years beginning on or after January 1, 2008, a developer or investor who constructs or substantially redevelops or rehabilitates (i) a single-family home with a value of $250,000 or less or (ii) a multi-family housing project consisting of apartments with at least two bedrooms and renting for $750 or less per month, on property located within the Fort Lee Housing Enterprise Zone, shall be allowed a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); or Article 1 (§ 58.1-2500 et seq.) of Chapter 25 of Title 58.1. The credit shall equal 50 percent of the actual amount expended by the developer or investor to acquire the land for such home or multi-family housing project. Credit shall only be allowed for that portion of such land acquisition costs that directly relates to a single-family home with a value of $250,000 or less or a multi-family housing project consisting of apartments with at least two bedrooms and renting for $750 or less. The credit may be claimed in the taxable year in which the qualifying single-family home or multi-family housing is placed in service.

B. The amount of credit that may be claimed by the taxpayer in any taxable year shall not exceed the lesser of (i) the tax imposed for the taxable year, or (ii) $500,000. Any credit not usable for the taxable year may be carried over for credit in the next five taxable years until the total amount of the tax credit has been taken.

C. The land that is the subject of a tax credit under this section shall not again be the subject of a tax credit under this section for at least 15 years from when the credit is first allowed. In addition, no tax credit shall be allowed more than once under this section for a unit or units of multi-family housing unless the basis for subsequent tax credit is a substantial rehabilitation to such unit or units.

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D. Any credit claimed under this section shall be claimed in accordance with guidelines established by the Board of the Department of Housing and Community Development. If any home or multi-family housing for which a credit has been allowed under this section is not operated in compliance with the provisions of § 42 of the U.S. Internal Revenue Code of 1986, as amended, within the 15 years that immediately follow the taxable year in which the qualifying home or multi-family housing is placed in service or sold, the Department of Taxation or the State Corporation Commission, as applicable, shall recapture the entire amount of any credit claimed for such multi-family housing or home up through the taxable year of noncompliance. In addition, no credit may be claimed pursuant to this section for such noncomplying multi-family housing or home subsequent to the finding of noncompliance. The entire amount of any such credit claimed shall be recaptured from the taxpayer who actually claimed the credit. The Department of Housing and Community Development shall at least annually check each multi-family housing or home that it has certified, pursuant to subsection F, as qualifying for the credit provided under this section to verify that such housing is being operated in compliance with the provisions of § 42 of the U.S. Internal Revenue Code of 1986, as amended.

E. The Board of Housing and Community Development shall develop guidelines setting forth the general requirements for qualification of the credit provided under this section, including the land acquisition costs for which credit is eligible. The guidelines shall also include provisions prohibiting a tax credit under this section and § 36-55.63 in the same taxable year for the same house or housing unit. To qualify for such credit, the developer or investor shall comply with a competitive process for allocation of tax credits established by the Board. For purposes of this section, the total amount of tax credits available each fiscal year to all such developers or investors shall not exceed $10 million. The promulgation of guidelines by the Board shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

F. To claim the credit allowed under this section, a developer or investor shall apply to the Department of Housing and Community Development, which shall determine the amount of the credit. The Director of the Department of Housing and Community Development shall certify to the Department of Taxation or the State Corporation Commission, as applicable, that such person qualified for the credit amount claimed on the applicable tax return for the taxable year. The developer or investor shall attach the certification form to the Virginia tax return filed with the Department of Taxation or the State Corporation Commission, as applicable. The Director shall also provide the Department of Taxation or the State Corporation Commission, as applicable, with credit recapture amounts and any other information it may require relating to the credit claimed by the taxpayer.

G. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners or shareholders mutually agree as provided in an executed document, the form of which shall be prescribed by the Board of Housing and Community Development.