

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section*
3 *numbered 58.1-439.12:06, relating to an international trade facility income tax credit.*

[H 2385]

Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a**
8 **section numbered 58.1-439.12:06 as follows:**

9 § 58.1-439.12:06. *Barge and rail usage tax credit.*

10 A. *As used in this section:*

11 *"International trade facility" means a company that:*

12 *1. Is doing business in the Commonwealth and engaged in port-related activities, including but not*
13 *limited to warehousing, distribution, freight forwarding and handling, and goods processing;*

14 *2. Has the sole discretion and authority to move cargo in containers originating or terminating in*
15 *the Commonwealth;*

16 *3. Uses maritime port facilities located in the Commonwealth; and*

17 *4. Uses barges and rail systems to move cargo containers through port facilities in the*
18 *Commonwealth rather than trucks or other motor vehicles on the Commonwealth's highways. Such*
19 *increase shall be measured in the number of 20-foot equivalent units (TEU) used to move such cargo.*

20 *B. For taxable years beginning on and after January 1, 2011, but before January 1, 2015, a*
21 *company that is an international trade facility shall be allowed a credit against the taxes imposed by*
22 *Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of this chapter;*
23 *Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2*
24 *(§ 58.1-2620 et seq.) of Chapter 26. The amount of the credit shall be \$50 per 20-foot equivalent unit*
25 *(TEU) moved by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's*
26 *highways.*

27 *C. The Tax Commissioner shall issue tax credits under this section, and in no case shall the Tax*
28 *Commissioner issue more than \$1.5 million in tax credits pursuant to this section in any fiscal year of*
29 *the Commonwealth. In addition, the Tax Commissioner shall not issue tax credits under this section*
30 *subsequent to the Commonwealth's fiscal year ending on June 30, 2015. The international trade facility*
31 *shall not be allowed to claim any tax credit under this section unless it has applied to the Department*
32 *for the tax credit and the Department has approved the credit. The Department shall determine the*
33 *credit amount allowable for the year and shall provide a written certification to the international trade*
34 *facility, which certification shall report the amount of the tax credit approved by the Department. The*
35 *international trade facility shall attach the certification to the applicable tax return.*

36 *D. For purposes of this section, the amount of any credit attributable to a partnership, electing small*
37 *business corporation (S corporation), or limited liability company shall be allocated to the individual*
38 *partners, shareholders, or members, respectively, in proportion to their ownership or interest in such*
39 *business entities.*

40 *E. Any credit not usable for the taxable year may be carried over for the next five taxable years or*
41 *until such credit is fully taken, whichever occurs first. The amount of the credit allowed pursuant to this*
42 *section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a*
43 *preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this*
44 *subsection is allowed another credit pursuant to any other section of this Code or has a credit*
45 *carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any*
46 *credit allowed that does not have a carryover provision, and then any credit that is carried forward*
47 *from a preceding taxable year, before using any credit allowed pursuant to this section.*

48 *F. The Tax Commissioner shall issue guidelines that are necessary and desirable to carry out the*
49 *provisions of this section, including (i) the computation and carryover of the credits provided under this*
50 *section and (ii) the establishment of criteria for international trade facilities. Such guidelines shall be*
51 *exempt from the Administrative Process Act (§ 2.2-4000 et seq.).*