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HOUSE BILL NO. 845

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03, relating to individual and corporate income tax credit, related to certain easements.*

Patrons—Morefield; Senator: Puckett

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 Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03 as follows:

§ 58.1-439.12:03. Tax credit for granting certain easements on real property.

A. As used in this section:

"Authority" means the Southwest Regional Recreation Authority established pursuant to § 15.2-6016, or any other substantially similar authority created by the General Assembly on or after January 1, 2010, whose purpose is to establish and maintain a regional recreation area.

"Easement" means an easement on real property for trails, granted to an Authority on or after July 1, 2010, permitting, among other things, public access and use of the real property governed by the easement.

B. For taxable years beginning on or after January 1, 2012, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of this chapter as set forth in this section. The amount of credit allowed pursuant to this section shall be equal to the value of the land governed by the easement, multiplied by the real property tax rate on the land. The value of the land shall be calculated based on the real property tax assessment of the unimproved parcel of land of which the easement is a part, divided by the percentage of the parcel governed by the easement. The value shall not be reduced because it is or will be encumbered by the easement.

C. Except for easements granted in taxable years beginning in 2010 and 2011, a taxpayer may claim the credit for the taxable year in which the easement is granted and for each full taxable year thereafter in which the easement continues. For easements granted in 2010 or 2011 a taxpayer may begin claiming the credit for the taxable year beginning in 2012, and continuing for each full taxable year thereafter in which the easement continues, plus an additional one or two taxable years depending on whether the easement was granted in 2011 or 2010, respectively. The amount of credit allowed shall not exceed the tax imposed for the taxable year. Any credit not usable for the taxable year in which it was earned, because of such limitation, may be carried over for the next 10 succeeding taxable years. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit, pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

D. If the taxpayer has no state tax liability for two consecutive taxable years for which credit is otherwise allowable, the credit amount applicable to such taxable years may be redeemable by the Tax Commissioner on behalf of the Commonwealth for 75 percent of the face value within 90 days after the taxpayer has filed the applicable income tax return for the second such taxable year. If the Commonwealth does not redeem the tax credit, or upon the taxpayer's election, such tax credit shall be transferable by sale.

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

F. A taxpayer who claims the credit for granting the easement under this section may not use granting of the easement as the basis for claiming any other credit provided under the Code of Virginia.

2. That no Authority shall receive easements in any calendar year prior to 2012 that would result in the total value of the credits earned by all taxpayers for such easements to exceed \$25,000. For each calendar year after 2012 but prior to 2014, no Authority shall receive easements that would result in the total value of the credits earned by all taxpayers for such easements to exceed

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59 \$50,000. For each calendar year on and after 2014, no Authority shall receive easements that
60 would result in the total value of the credits earned by all taxpayers for such easements to exceed
61 \$100,000.
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