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HOUSE BILL NO. 514

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:11, relating to tax credits for the direct costs of complying with certain state regulations.*

Patron—Purkey

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 58.1-439.12:11 as follows:

§ 58.1-439.12:11. Tax credit for direct costs of complying with excessive state regulations.

A. *For taxable years beginning on or after January 1, 2012, a business shall be allowed a credit against the tax levied pursuant to Articles 2 (§ 58.1-320 et seq.) or 10 (§ 58.1-400 et seq.) of this chapter or Chapter 25 (§ 58.1-2500 et seq.) for the direct costs paid by the business, attributable to its location in the Commonwealth, to comply with excessive state regulations.*

B. *As used in this section, unless the context requires a different meaning:*

"Direct costs" means those expenditures that are directly attributable to complying with excessive state regulations. However, the term shall also include lost profits from business in the Commonwealth.

"Excessive state regulations" means regulations or mandatory rules or guidelines that are (i) imposed by any Commonwealth board, commission, department, division, agency, or other state entity, (ii) not required by any federal law, regulation, rule, or other federal authority, (iii) in general, costly to comply with, and (iv) imposed on a business for conducting business in the Commonwealth that restrict, condition, or prohibit ordinarily harmless property conditions or the ordinarily harmless exercise or enjoyment by the business of its legal rights. The Secretary of Commerce and Trade shall have the duty and sole discretion to identify excessive state regulations.

C. *When claiming the credit under this section, the business shall attach to the applicable tax return such receipts, documents, or other evidence substantiating the business' direct costs to comply with excessive state regulations as may be required pursuant to guidelines developed by the Department.*

D. *The Secretary of Commerce and Trade, as part of his normal duties, shall review state regulations and mandatory rules or guidelines for purposes of identifying excessive state regulations. The Secretary shall keep a current list of such excessive state regulations on the Secretary's website and shall periodically update the list. In identifying excessive state regulations, the Secretary may consult with the Joint Commission on Administrative Rules established under Chapter 8.1 (§ 30-73.1 et seq.) of Title 30 or any other person having expertise with the regulation or mandatory rule or guideline.*

In no case shall a business be allowed a credit under this section for its costs during the taxable year to comply with a regulation, rule, or guideline if the regulation, rule, or guideline was not identified by the Secretary of Commerce and Trade as an excessive state regulation for such taxable year.

E. *The amount of the credit shall not exceed the total amount of tax imposed by this chapter upon the business for the taxable year. Any credit not usable for the taxable year for which the credit was allowed may be carried over for credit against the applicable taxes of the business in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.*

F. *Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.*

G. *The Tax Commissioner shall develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*

INTRODUCED

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