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SENATE BILL NO. 262

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to microenterprise investment tax credits.*

 Patron—Ebbin

 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 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 58.1-339.13. Microenterprise investment tax credit.

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

"Green business" means a business engaged in the fields of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen and fuel cell technology, landfill gas, geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems. The Secretary of Commerce and Trade shall develop a detailed definition of the industries in which an investment would qualify for a credit under this section.

"HUBZone" means an area designated as a Historically Underutilized Business Zone by the U.S. Small Business Administration.

"Microenterprise" means a business with 10 or fewer employees that is located in the Commonwealth and is not primarily engaged in real estate, professional services, or financial services.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds such investment, or any of the taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from the qualified business in exchange for services provided to such business as an employee, officer, director, manager, independent contractor, or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

B. For taxable years beginning on or after January 1, 2012, but before January 1, 2017, a taxpayer shall be allowed a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-360 as follows:

1. For a qualified investment in a microenterprise located in an area designated as a HUBZone at the time of the investment, an amount equal to 25 percent of the taxpayer's qualified investment, to be taken over a three-year period as follows:

a. A 15 percent credit during the taxable year in which the investment was made; and

b. A five percent credit during each of the two years immediately following the year in which the investment was made;

2. For a qualified investment in a green microenterprise, an amount equal to 25 percent of the taxpayer's qualified investment, to be taken over a three-year period as follows:

a. A 15 percent credit during the taxable year in which the investment was made; and

b. A five percent credit during each of the two years immediately following the year in which the investment was made; and

3. For a qualified investment in any other microenterprise, an amount equal to 20 percent of the taxpayer's qualified investment, to be taken over a three-year period as follows:

a. A 10 percent credit during the taxable year in which the investment was made; and

b. A five percent credit during each of the two years immediately following the year in which the investment was made.

C. No credit shall be allowed to any taxpayer that has committed capital under management in excess of \$10 million and engages in the business of making debt or equity investments in private businesses or to any taxpayer that is allocated a credit as a partner, shareholder, member, or owner of an entity that engages in such business.

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59 *E. The amount of any credit attributable to a qualified investment by a partnership, electing small*
60 *business corporation (S corporation), or limited liability company shall be allocated to the individual*
61 *partners, shareholders, or members, respectively, in proportion to their ownership interest in such*
62 *business entities.*

63 *D. The aggregate amount of the credit for each taxpayer shall not exceed \$12,500. In any taxable*
64 *year in which the tax credit is taken, the amount of the credit for each taxpayer shall not exceed the*
65 *taxpayer's liability under this chapter. The credit may only be carried forward as set forth in subsection*
66 *B.*

67 *E. The amount of tax credits available under this section for a calendar year shall be \$2.5 million.*
68 *The Department shall allow for the allocation of tax credits among taxpayers requesting credits in the*
69 *event the amount of credits for which requests are made exceeds the available amount of credits in any*
70 *one calendar year.*