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HOUSE BILL NO. 2282

Offered January 16, 2013

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 a tax credit for expenses to remove physical barriers for access to and usability of places of public accommodation by persons with disabilities.*

Patron—Plum

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. Places of public accommodation barrier removal tax credit.

A. As used in this section:

"Place of public accommodation" means a facility subject to Title III of the Americans with Disabilities Act (42 U.S.C. § 12181 et seq.) that is a public accommodation as defined under such Title or the regulations thereto.

B. For taxable years beginning on or after January 1, 2013, but before January 1, 2018, any business undertaking actions to remove physical barriers from an existing place of public accommodation to provide greater access to and usability of such place by persons with disabilities shall be allowed a credit against the tax imposed pursuant to § 58.1-320 or 58.1-400 in an amount equal to 50 percent of the total amount paid by the business in removing such barriers at the place of public accommodation, but not to exceed \$1,000 expended by the business for each place of public accommodation. Such credit shall require prior approval as provided in subsection D.

C. The credit may first be claimed for the taxable year in which removal of the physical barriers has been completed in conformity with the business's application for tax credit as approved by the Department of Housing and Community Development pursuant to subsection D.

The amount of the credit claimed 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 first allowed to be claimed may be carried over for credit against the income 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.

D. In order to be eligible for the credit pursuant to this section, the business shall first apply to the Department of Housing and Community Development for approval of any tax credit. Such application shall describe the existing place of public accommodation, physical barriers to be removed, expected cost of removal, and anticipated completion date.

The Department of Housing and Community Development shall preapprove those applications for proposed barrier removal actions that fall within the requirements for the removal of barriers set forth in applicable federal regulations implementing the Americans with Disabilities Act. The Department of Housing and Community Development shall not preapprove more than \$1 million in tax credits under this section during any fiscal year of the Commonwealth. In the event that applications preapproved during a fiscal year result in more than \$1 million in tax credits being preapproved, the Department of Housing and Community Development shall apportion the tax credits by dividing \$1 million by the total amount of preapproved tax credits to determine the percentage of preapproved tax credits that each business with a preapproved application shall receive.

Upon completion of the proposed barrier removal action for which a tax credit was preapproved, the business shall provide such documentation and other evidence of the same as required by the Department of Housing and Community Development. Upon its receipt of the evidence and confirmation of completion of the proposed barrier removal action, the Department of Housing and Community Development shall provide a written certification to the business issuing a tax credit in an amount that is in accordance with the provisions of this section and that is not in excess of the preapproved tax credit amount. The business shall attach the certification to the applicable income tax return.

E. 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 of or interest in such business entities.

F. The Department of Housing and Community Development, in consultation with the Tax Commissioner, shall develop guidelines implementing the provisions of this section. The guidelines shall include policies and procedures to ensure that tax credits are not issued to more than one business for

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59 *the same costs incurred in removing physical barriers at a place of public accommodation. Such*
60 *guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*