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HOUSE BILL NO. 456

Offered January 11, 2012
Prefiled January 10, 2012

A BILL to amend and reenact § 58.1-339.10 of the Code of Virginia, relating to riparian forest tax credit; refunds.

Patron—Ware, R.L.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-339.10 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-339.10. Riparian forest buffer protection for waterways tax credit.

A. For all taxable years beginning on or after January 1, 2000, any individual who owns land abutting a waterway on which timber is harvested, and who forbears harvesting timber on certain portions of the land near the waterway, shall be allowed a credit against the tax imposed by § 58.1-320 as set forth in this section. For purposes of this section, "waterway" means any perennial or intermittent stream of water depicted on the then most current United States Geological Survey topographical map. For purposes of this section and for taxable years beginning on and after January 1, 2008, "individual" means an individual person and an individual's grantor trust.

B. The State Forester shall develop guidelines setting forth the general requirements of qualifying for the credit, including the land for which credit is eligible. To qualify for the credit, the individual must comply with an individualized Forest Stewardship Plan to be certified by the State Forester. In no event shall the distance from such waterway to the far end of the timber buffer, on which the tax credit is based, be less than ~~thirty-five~~ *35* feet or more than ~~three hundred~~ *300* feet. The minimum duration for the buffer shall be ~~fifteen~~ *15* years. The State Forester shall check each certified buffer annually to verify its continued compliance with the individual's Forest Stewardship Plan. If the State Forester discovers that the timber in that portion of the land retained as a buffer has been harvested prior to the end of the required term, written notification of such violation shall be delivered to the individual by the State Forester.

C. The tax credit shall be an amount equal to ~~twenty-five~~ *25* percent of the value of timber in that portion of the land retained as a buffer. The amount of such credit shall not exceed $17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year that the timber outside the buffer was harvested. If the amount of the credit exceeds the individual's liability for such taxable year, the excess ~~may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken~~ *shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.* For purposes of this section, the amount of any credit attributable to qualified buffer protection by a partnership or electing small business corporation (S Corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S Corporation. The land which is the subject of a tax credit under this section cannot again be the subject of a tax credit under this section for at least ~~fifteen~~ *15* years. The State Forester shall check each certified buffer annually to verify its continued compliance with the individual's Forest Stewardship Plan. If the State Forester discovers that the timber in that portion of the land retained as a buffer has been harvested prior to the end of the required term, written notification of such noncompliance shall be delivered to the individual by the State Forester.

D. To claim the credit authorized under this section, the individual shall apply to the State Forester, who shall determine the amount of credit, using the assessed value of the timber in that portion of land retained as a buffer, and issue a certificate thereof to the individual. The individual shall attach the certificate to the Virginia tax return on which the credit is claimed. In the event the timber in that portion of land retained as a buffer is harvested by the individual or any other person prior to the end of the term originally established in the individual's Forest Stewardship Plan, the individual shall repay the tax credit claimed. Within ~~sixty~~ *60* days after receiving written notification from the State Forester that the individual's plan no longer qualifies for the credit, repayment shall be made to the Department of Taxation. If repayment is not made within the ~~sixty-day~~ *60-day* period, the State Forester shall notify the locality's *attorney for the* Commonwealth ~~Attorney~~ for assistance in collecting the funds from the individual.

INTRODUCED

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