

LD1013812

HOUSE BILL NO. 1411

House Amendments in [] — February 17, 1994

A BILL to amend the Code of Virginia by adding a section numbered [~~59.1-280.2~~ 59.1-280.1] , relating to the computation of Virginia income tax liability and an enterprise zone interest income tax credit.

Patron—Newman

Introduced at the request of the Governor

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [~~59.1-280.2~~ 59.1-280.1] as follows:

[~~§ 59.1-280.2~~ § 59.1-280.1.] Enterprise zone interest income tax credit.

A. For all taxable years beginning on and after July 1, 1995, but before July 1, 2005, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, and Chapter 12 (§ 58.1-1200 et seq.) of Title 58.1 of the Code of Virginia, as set forth in this section.

B. For any qualified zone lender, a credit shall be allowed pursuant to this section in an amount equaling fifteen percent of the qualified zone interest income. However, in no event shall the cumulative credit allowed pursuant to this section for each lender exceed \$100,000 for a taxable year.

C. "Qualified zone lender" means a state or national bank, banking association, trust company, savings and loan association, investment banker, venture capital firm, investment partnership, real estate investment trust, or other financial institution which (i) is regularly engaged in the business of lending money and (ii) makes a loan that qualifies as enterprise zone indebtedness.

D. "Qualified zone interest income" means the amount of interest income reported for federal income tax purposes for the taxable year with respect to enterprise zone indebtedness. Qualified zone interest income shall not include any amount which was received from a related [~~part~~ party] as defined by Internal Revenue Code § 267 (b) or a trade or business under common control as defined by Internal Revenue Code § 52 (b).

E. "Enterprise zone indebtedness" means money loaned to a trade or business operating in an enterprise zone for the express purpose of expansion, construction, or rehabilitation of certified industrial or commercial real property located within an enterprise zone, provided that the amount of such indebtedness is at least twenty-five percent of the basis of the real property, not including improvements, to be improved.

1. Permanent financing (which replaces construction financing that qualified as enterprise zone indebtedness) shall qualify as enterprise zone indebtedness to the extent, immediately after the refinancing, the principal amount of the indebtedness resulting from the permanent financing does not exceed the sum of (i) the principal amount of construction financing and (ii) the closing costs, points, and fees related to the permanent financing.

2. Except as otherwise provided for permanent financing, loans made to refinance existing indebtedness shall not qualify as enterprise zone indebtedness.

F. The Department shall certify all enterprise zone indebtedness which qualifies for purposes of the credit provided by this section. Only indebtedness that has been properly certified shall be eligible for the credit. Any form filed with the Department of Taxation for the purpose of claiming the credit shall itemize the amount and source of qualified zone interest income earned, and be accompanied by a copy of the certifications furnished to the qualified zone lender by the Department.

G. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any tax credit granted pursuant to this section is nonrefundable, but any credit not usable for the taxable year during which the credit was generated may be, to the extent usable, carried over for the next five succeeding taxable years or until the full credit is utilized. No credit shall be carried back to a preceding taxable year. In the event that a taxpayer who is subject to the tax limitation imposed pursuant to this subsection has earned another credit pursuant to any other section of the Code of Virginia, or has a credit carryforward from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit earned pursuant to this section.

ENGROSSED

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60 *H. In the case of a partnership, limited liability company or S corporation, the term "qualified zone*
61 *lender" as used in this section means the partnership, limited liability company or S corporation.*
62 *Credits granted to a partnership, limited liability company or S corporation shall be passed through to*
63 *the partners, members or shareholders, respectively.*

64 *I. The Tax Commissioner shall have the authority to issue regulations relating to the computation*
65 *and carryover of the credit provided under this section. The Department shall have the authority to*
66 *issue regulations relating to the criteria for enterprise zone indebtedness, and the certification process of*
67 *the credit provided under this section.*

68 *[J. In the first taxable year only, this credit shall be prorated equally against the taxpayer's*
69 *estimated payments made in the third and fourth quarters and the final payment, if such taxpayer is*
70 *required to make quarterly payments.]*

71 **2. That the General Assembly of Virginia believes that encouraging financial institutions to loan**
72 **money for the rehabilitation and improvement of real property located within an enterprise zone**
73 **will add to the economic vitality of this Commonwealth. Accordingly, the provisions of this [**
74 **section act] targeting the credit to enterprise zone indebtedness and limiting the credit to qualified**
75 **zone lenders are integral to the purpose of the credit allowed by this section and shall not be**
76 **deemed severable.**