

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 sections numbered 58.1-439.1 and 58.1-439.2 and to amend and reenact the third enactment of Chapter 730 of the 1988 Acts of Assembly, relating to coal industry tax credits.

[H 2575]

Approved

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 sections numbered 58.1-439.1 and 58.1-439.2 as follows:

§ 58.1-439.1. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, but before January 1, 2001, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

<i>Seam Thickness</i>	<i>Credit per Ton</i>
<i>Under 33"</i>	<i>\$.60</i>
<i>33" and Above</i>	<i>\$.50</i>

The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of Mines, Minerals and Energy is hereby authorized to audit all information upon which the isopach mapping is based.

2. For coal mined by surface mining methods, a credit in the amount of twenty-five cents per ton for coal sold in 1996, and each year thereafter.

B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1, 1996, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one cent per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth on such person.

C. For purposes of this section, economic interest is the same as the economic ownership interest required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party who only receives an arm's length royalty shall not be considered as having an economic interest in coal mined in the Commonwealth.

D. If the credit exceeds the person's state tax liability for the tax year, the excess may be redeemable by the Tax Commissioner on behalf of the Commonwealth for ninety-five percent of the face value within ninety days after filing the return. If the Commonwealth does not redeem such excess amount, it shall be transferable by sale.

E. No person may utilize more than one of the credits on a given ton of coal described in subsection A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has been claimed under § 58.1-433 or § 58.1-2626.1. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed annually beginning in 1999. No credit authorized by subsections A and B shall be taken by any taxpayer in 1999 unless general fund revenue in fiscal year 1997-98 exceeds the official estimate of general fund revenue by at least the cost of the credits authorized by subsections A and B as estimated by the Department of Taxation. In each following year no credit shall be taken by any taxpayer unless general fund revenue in the fiscal year ending the prior June 30 exceeds the official estimate of general fund revenue by at least the cost of the credits authorized by subsections A and B.

§ 58.1-439.2. Qualifying steam producers tax credit.

For tax years beginning on and after January 1, 1996, but before January 1, 2001, a steam producer shall be allowed a credit against the tax imposed by § 58.1-400 in the amount of three dollars per ton for each ton of coal mined in Virginia purchased by such steam producer. "Steam producer" means a person who sells steam energy to a manufacturing company in the Commonwealth or uses steam to produce manufactured goods. In order to receive the credit under this section, the steam

57 *producer shall include a certification from the coal producer that the coal was mined in Virginia. In no*
58 *event shall the credit allowed hereunder exceed the total amount of tax liability of such steam producer.*
59 *Any tax credit not usable for the taxable year may be carried over to the extent usable for the next five*
60 *succeeding tax years or until the full credit is used, whichever is sooner.*

61 **2. That the third enactment of Chapter 730 of the 1988 Acts of Assembly is amended and**
62 **reenacted as follows:**

63 3. That the provisions of this act shall expire on December 31, ~~1996~~ 2001.

64 **3. That the Virginia Port Authority shall undertake a study of the effect the Coalfield**
65 **Enhancement Tax Credit has or will have on the export coal businesses at the Ports of Hampton**
66 **Roads, and make its report to the chairmen of the Senate Finance and House Finance Committees**
67 **by December 1, 1995.**

68 **4. That the Center for Public Service, in cooperation with the Virginia Port Authority, Department**
69 **of Taxation, Department of Mines, Minerals and Energy, Department of Economic Development,**
70 **the Office of the Attorney General, shall undertake a study of the policy, legal, and economic**
71 **impacts of the credits authorized by §§ 58.1-433 and 58.1-2626.1 and to be authorized under this**
72 **act, as well as the efficiency of such credits, and make its report to the Governor and the**
73 **chairmen of the Senate Finance and House Finance Committees by December 1, 1995.**