

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 826

*An Act to amend and reenact §§ 36-55.63, 58.1-336 and 58.1-435 of the Code of Virginia, relating to the low-income housing credit.*

[S 421]

Approved April 8, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 36-55.63, 58.1-336 and 58.1-435 of the Code of Virginia are amended and reenacted as follows:**

§ 36-55.63. Low-income housing credit.

A. Any person shall be entitled to a credit against the income taxes imposed pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 for the first five taxable years in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, ~~1996~~ 1998, provided such person qualified for and claimed the low-income housing credit on the federal income tax return filed for the taxable year, and meets the qualifications established by the Board of Housing and Community Development for claiming such credit on the Virginia income tax return.

B. The Board of Housing and Community Development shall issue regulations establishing the amount of the low-income housing credit allowable and the terms and conditions for qualifying for such credit. The Virginia low-income housing credit amount shall be a percentage of the federal low-income tax credit claimed for the taxable year; however, the specific percentage shall be determined by the Board. If the low-income housing credit claimed on the person's federal tax return was calculated on a period of less than twelve months, the Board may nevertheless calculate the Virginia low-income housing credit amount on the basis of a twelve-month period for the taxable year.

C. The Department of Housing and Community Development shall administer the approval of low-income housing credits. The total maximum amount of low-income housing credits which may be approved by the Board in any calendar year shall be \$3.5 million. When the Department authorizes a person to claim a low-income housing credit amount on the Virginia income tax return, the amount allocated for the initial calendar year shall be applied to reduce the total maximum credit limit, only for the first calendar year in which the credit amount is authorized by the Department.

D. If any person qualifies in a taxable year for the Virginia low-income housing credit, and in a subsequent taxable year is subject to the credit recapture provisions for federal income tax purposes, such person shall similarly be subject to a credit recapture amount on the Virginia income tax return. The Board shall promulgate regulations establishing the terms and conditions for computing the credit recapture amount for the Virginia income tax return.

E. To claim the credit authorized under this section, the taxpayer shall apply to the Department of Housing and Community Development to determine the credit amount allowable for the taxable year. The Department shall certify to the Department of Taxation that such person qualified for the Virginia low-income housing credit amount claimed on the tax return for the taxable year. The taxpayer shall attach the certification form to the Virginia income tax return filed with the Department of Taxation. The Department of Housing and Community Development shall also provide the Department of Taxation with credit recapture amounts and any other information it may require relating to the credit claimed by the taxpayer.

§ 58.1-336. Low-income housing credit.

A. Any person shall be entitled to a credit against the tax imposed by § 58.1-320 in the amount certified to the Department pursuant to § 36-55.63 for the first five taxable years in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, ~~1996~~ 1998. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively.

B. Any person claiming a credit pursuant to subsection A shall be subject to recapture of the credit pursuant to § 36-55.63. Any credit recapture shall be assessed and collected in the same manner as a tax attributable to a change in federal taxable income within the meaning of § 58.1-311.

§ 58.1-435. Low-income housing credit.

A. Any person shall be entitled to a credit against the tax imposed by § 58.1-400 in the amount certified to the Department pursuant to § 36-55.63 for the first five taxable years in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, ~~1996~~ 1998. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively.

B. Any person claiming a credit pursuant to subsection A shall be subject to recapture of the credit pursuant to § 36-55.63. Any credit recapture shall be assessed and collected in the same manner as a tax

attributable to a change in federal taxable income within the meaning of § 58.1-311.

**2. That the provisions of this act shall become effective for taxable years beginning on and after January 1, 1996.**