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HOUSE BILL NO. 868

Offered January 22, 1996

A BILL to amend and reenact §§ 36-137 and 36-139 of the Code of Virginia and to amend the Code of Virginia by adding in Title 36 a chapter numbered 10, consisting of sections numbered 36-152 through 36-155 and by adding a section numbered 58.1-438.2, relating to the creation of the Community Development Act and eligibility for tax credits thereunder.

Patrons—Cunningham, Hall, Jones, D.C. and McEachin; Senators: Benedetti, Lambert and Marsh

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-137 and 36-139 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 36 a chapter numbered 10, consisting of sections numbered 36-152 through 36-155, and by adding a section numbered 58.1-438.2 as follows:

§ 36-137. Powers and duties of Board.

The Board shall exercise the following powers and duties, and such others as may be provided by law:

1. Provide a means of citizen access to the Department.
2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities.
3. Monitor the policies and activities of the Department and have the right of access to departmental information.

4. Advise the Governor and the Director on matters relating to housing and community development.

5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.

6. Issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of this title and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.

7. Levy by regulation up to one percent of building permit fees authorized pursuant to § 36-105 to support training programs of the Building Code Academy established pursuant to § 36-139. Local building departments shall collect such levy and transmit it quarterly to the Department of Housing and Community Development. Localities which maintain, individual or regional, training academies accredited by the Department of Housing and Community Development shall retain such levy. However, such localities may send employees to training programs of the Building Code Academy upon payment of a fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year for the continued operation of the Building Code Academy. Annual collections of such levy in excess of \$500,000 or any unobligated fund balance greater than one-third of that year's collections shall be credited against the levy to be collected in the next fiscal year.

8. Establish general policies, procedures, and programs for the Virginia Housing Partnership Revolving Fund established in Chapter 9 (§ 36-141 et seq.) of this title.

9. Determine the categories of housing programs, housing sponsors and persons and families of low and moderate income eligible to participate in grant or loan programs of the Virginia Housing Partnership Revolving Fund and designate the proportion of such grants or loans to be made available in each category.

10. Advise the Director of the Department on the program guidelines required to accomplish the policies and procedures of the Virginia Housing Partnership Revolving Fund.

11. Advise the Virginia Housing Development Authority on matters relating to the administration and management of loans and grants from the Virginia Housing Partnership Revolving Fund.

12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia income tax return.

13. Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.

14. Advise the Department in the development of the Comprehensive Housing Affordability Strategy to guide and coordinate the housing programs of the Department, the Virginia Housing Development Authority, and other state agencies and instrumentalities.

15. Establish regulations for the approval or disapproval of proposals by business firms, community

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60 *development banks, or community development organizations for tax credits available under the*
61 *Community Development Act of 1996 (§ 36-152 et seq.).*

62 § 36-139. Powers and duties of Director.

63 The Director of the Department of Housing and Community Development shall have the following
64 responsibilities:

65 1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their
66 planning and development activities, boundary changes, changes of forms and status of government,
67 intergovernmental agreements and arrangements, and such other information as he may deem necessary.

68 2. Making information available to communities, planning district commissions, service districts and
69 governmental subdivisions of the Commonwealth.

70 3. Providing professional and technical assistance to, and cooperating with, any planning agency,
71 planning district commission, service district, and governmental subdivision engaged in the preparation
72 of development plans and programs, service district plans, or consolidation agreements.

73 4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the
74 General Assembly in accordance with § 15.1-1412.

75 5. Administering federal grant assistance programs, including funds from the Appalachian Regional
76 Commission, the Economic Development Administration and other such federal agencies, directed at
77 promoting the development of the Commonwealth's communities and regions.

78 6. Developing state community development policies, goals, plans and programs for the consideration
79 and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the
80 General Assembly.

81 7. Developing a Comprehensive Housing Affordability Strategy to guide the development and
82 implementation of housing programs in the Commonwealth for the purpose of meeting the housing
83 needs of the Commonwealth and, in particular, those of low-income and moderate-income persons and
84 families.

85 8. Determining present and future housing requirements of the Commonwealth on an annual basis
86 and revising the Comprehensive Housing Affordability Strategy, as necessary to coordinate the elements
87 of housing production to ensure the availability of housing where and when needed.

88 9. Assuming administrative coordination of the various state housing programs and cooperating with
89 the various state agencies in their programs as they relate to housing.

90 10. Establishing public information and educational programs relating to housing; devising and
91 administering programs to inform all citizens about housing and housing-related programs that are
92 available on all levels of government; designing and administering educational programs to prepare
93 families for home ownership and counseling them during their first years as homeowners; and promoting
94 educational programs to assist sponsors in the development of low and moderate income housing as well
95 as programs to lessen the problems of rental housing management.

96 11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

97 12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

98 13. Administering the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.).

99 14. Establishing and operating a Building Code Academy for the training of personnel in building
100 regulations promulgated by the Board of Housing and Community Development.

101 15. Administering, in conjunction with the federal government, and promulgating any necessary
102 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

103 16. Identifying and disseminating information to local governments about the availability and
104 utilization of federal and state resources.

105 17. Administering, with the cooperation of the Department of Health, state assistance programs for
106 public water supply systems.

107 18. Advising the Board on matters relating to policies and programs of the Virginia Housing
108 Partnership Revolving Fund.

109 19. Designing and establishing program guidelines to meet the purposes of the Virginia Housing
110 Partnership Revolving Fund and to carry out the policies and procedures established by the Board.

111 20. Preparing agreements and documents for loans and grants to be made from the Virginia Housing
112 Partnership Revolving Fund; soliciting, receiving, reviewing and selecting the applications for which
113 loans and grants are to be made from such Fund; directing the Virginia Housing Development Authority
114 as to the closing and disbursing of such loans and grants and as to the servicing and collection of such
115 loans; directing the Virginia Housing Development Authority as to the regulation and monitoring of the
116 ownership, occupancy and operation of the housing developments and residential housing financed or
117 assisted by such loans and grants; and providing direction and guidance to the Virginia Housing
118 Development Authority as to the investment of moneys in such Fund.

119 21. Advising the Board on matters relating to policies for the low-income housing credit and
120 administering the approval of low-income housing credits as provided in § 36-55.63.

121 22. Carrying out such other duties as may be necessary and convenient to the exercise of powers

granted to the Department.

23. Approving the proposals of business firms or community development organizations for the purpose of determining eligibility for tax credits available under the Community Development Act of 1996 (§ 36-152 et seq.).

CHAPTER 10. COMMUNITY DEVELOPMENT ACT OF 1996.

§ 36-152. Definitions.

As used in this chapter:

"Business firm" means any business entity authorized to do business in the Commonwealth that is also subject to the state income tax on net corporation income pursuant to Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1 or public service companies subject to the franchise or license tax on gross receipts, or regulated financial institutions, partnerships, S corporations, or sole proprietorships.

"Community development bank" means any community development institution that also employs a commercial bank, credit union, or savings and loan as a vehicle for providing development credit to a targeted community or population of the Commonwealth, particularly impoverished persons or an impoverished area.

"Community development organization" means any nonprofit organization providing economic or community development services, investment, or programs directed at impoverished persons or impoverished areas of the Commonwealth. Such organization shall be exempt from federal taxation under §§ 501(c) (3) and 501 (c) (4) of the Internal Revenue Code.

"Impoverished area" means any area in the Commonwealth which is designated as such by the Director of the Department of Planning and Budget or his designee. Such designation shall be made on the basis of standard definitions of poverty or other equivalent, uniform, and verifiable data source.

"Impoverished persons" means any persons in the Commonwealth who are designated as such by the Director of the Department of Planning and Budget or his designee. Such designation shall be made on the basis of standard definitions of poverty or other equivalent, uniform, and verifiable data source.

"Normal course of business" means those acts which are engaged in by a business firm with a view toward winning financial gain, or those acts which are performed by a business firm in the conduct of the business firm as a business.

§ 36-153. Public policy; business firms; investment.

It is hereby declared to be the public policy of the Commonwealth of Virginia to encourage investment by business firms, including financial institutions, in nonprofit community development organizations that offer a source of capital to impoverished persons and areas for the purpose of enhancing economic development and opportunities for employment and entrepreneurship.

§ 36-154. Tax credit authorized; proposals; regulations; amount for programs.

Any business firm which offers either a grant or loan to a nonprofit community development organization which provides economic or community development services, investment or other programs to impoverished persons or impoverished areas of the Commonwealth shall be entitled to a tax credit as provided in § 36-155, if the Director of the Housing and Community Development Board or his designee approves the proposal of such business firm or of a community development organization. The proposal shall set forth the terms of the proposed grant or loan, the impoverished persons or areas intended to benefit from the proposal, and the plan for extending the credit enabled by the grant or loan to the target community or persons. The Board of Housing and Community Development shall promulgate regulations for the approval or disapproval of such proposals by the business firm or community development organization. Such regulations shall contain a requirement that an annual audit be provided by the business firm or community development organization as a prerequisite for approval. The total amount of the tax credit available for grants or loans approved under this chapter shall not exceed one million dollars in any taxable year. Tax credits shall not be authorized after fiscal year 1997-98.

§ 36-155. Tax credit; amount, limitation, carry over.

The Board of Housing and Community Development shall certify to the Commissioner of the Department of Taxation, or in the case of public service corporations subject to a license tax imposed by Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1, to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credit provided herein for a business firm against any tax due under Article 10 (§ 58.1-400 et seq.) of Chapter 4 of Title 58.1 or against any income tax, franchise tax, gross receipts tax or premium tax due from a public service company, bank, bank and trust company, trust company, insurance company, other than a foreign fire or casualty insurance company, national bank, mutual savings bank, savings and loan association, partnership, S corporation, or sole proprietorship, in an amount equal to (i) fifty percent of the total amount of investment made, in the form of a grant, to a qualifying community development organization, or (ii) ten percent of the total amount (a) of the proceeds of a loan made to a qualifying community development

183 organization, or (b) of the return earned on an equity investment in a qualifying community development
184 organization, received in the form of dividends or capital gains.

185 § 58.1-438.2. Tax credit for investments under the Community Development Act of 1996.

186 Any business firm, as defined in § 36-152, shall be entitled to a credit against the tax imposed by
187 §§ 58.1-400, 58.1-1200 through 58.1-1217, 58.1-2501 and 58.1-2626 of an amount equal to (i) fifty
188 percent of the total amount investment made, in the form of a grant, to a qualifying community
189 development organization or (ii) ten percent of the total amount (a) of the proceeds of a loan made to a
190 qualifying community development organization or (b) of the return earned on an equity investment in a
191 qualifying community development organization, received in the form of dividends or capital gains. No
192 tax credit of less than fifty dollars shall be granted, nor shall a tax credit be granted to any business
193 firm for investments if such activity is a part of its normal course of business as defined in § 36.1-152.
194 Any tax credit not usable for the taxable year the investment was made may be carried over to the
195 extent usable for the next five succeeding taxable years or until the full credit is utilized, whichever is
196 sooner. Credits granted to a partnership or S corporation shall be passed through to the partners or
197 shareholders, respectively.