

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 640

*An Act to amend and reenact §§ 58.1-333, 58.1-430, and 63.1-320 through 63.1-325 of the Code of Virginia, relating to the Neighborhood Assistance Act.*

[S 920]

Approved March 21, 1997

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

**1. That §§ 58.1-333, 58.1-430, and 63.1-320 through 63.1-325 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-333. Tax credit for donations under the Neighborhood Assistance Act.

Any business firm, as defined in § 63.1-321, shall be allowed a credit against the tax imposed by Article 2 (§ 58.1-320 ~~or Chapter 12 et seq.~~) of this title, ~~§§ 58.1-2501 and 58.1-2626~~ chapter of an amount equal to ~~fifty~~ *forty-five* percent of the total sum ~~invested~~ *donated* under the Neighborhood Assistance Act of 1981 (§ 63.1-320 et seq.) during the taxable year, such credit not to exceed \$175,000 ~~annually as provided in § 63.1-324~~. No tax credit of less than fifty dollars shall be granted; nor shall a tax credit be granted to any business firm for investments if such activity is part of its normal course of business as defined in ~~§ 63.1-321~~. Any tax credit not usable for the taxable year the investment was made may be carried over to the extent usable for the next five succeeding taxable years or until the full credit is utilized, whichever is sooner. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively.

§ 58.1-430. Tax credit for donations under the Neighborhood Assistance Act.

Any business firm, as defined in § 63.1-321, shall be allowed a credit against the tax imposed by Article 10 (§ 58.1-400 ~~or Chapter 12 et seq.~~) of this title, ~~§§ 58.1-2501 and 58.1-2626~~ chapter of an amount equal to ~~fifty~~ *forty-five* percent of the total sum ~~invested~~ *donated* under the Neighborhood Assistance Act of 1981 (§ 63.1-320 et seq.) during the taxable year, such credit not to exceed \$175,000 ~~annually as provided in § 63.1-324~~. No tax credit of less than fifty dollars shall be granted; nor shall a tax credit be granted to any business firm for investments if such activity is a part of its normal course of business as defined in ~~§ 63.1-321~~. Any tax credit not usable for the taxable year the investment was made may be carried over to the extent usable for the next five succeeding taxable years or until the full credit is utilized, whichever is sooner. Credits granted to a partnership or Subchapter S corporation shall be passed through to the partners or shareholders, respectively.

§ 63.1-320. Short title.

This chapter shall be known and may be cited as the "Neighborhood Assistance Act of 1981."

§ 63.1-321. Definitions.

As used in this chapter:

"Business firm" means any business entity authorized to do business in the Commonwealth of Virginia and subject to the state income tax on net corporation income (~~§ 58.1-400 et seq.~~) or a public service company subject to a franchise or license tax on gross receipts, or a bank, bank and trust company, insurance company, trust company, national bank, mutual savings bank, savings institution, partnership, *electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this Commonwealth subject to tax imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1.*

"Community services" means any type of counseling and advice, emergency assistance, medical care, *provision of basic necessities, or services designed to minimize the effects of poverty, furnished primarily to individuals or groups in an impoverished area, or impoverished people.*

"Crime prevention" means any activity which aids the prevention or reduction of crime in an impoverished area.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who is impoverished.

"Impoverished area" means any area in Virginia which is approved as such by the Director of the Department of Planning and Budget or his designee. Such approval shall be made on the basis of federal census studies or current indices of social and economic conditions or both.

"Housing assistance" means furnishing financial assistance, labor, material, or technical advice to aid the physical improvement of the homes of impoverished people.

"Impoverished people" means people in Virginia approved as such by the Director of the Department of Planning and Budget or his designee *State Board of Social Services*. Such approval shall be made on the basis of generally recognized low income criteria used by federal and state agencies.

"Job training" means any type of instruction to an individual who is impoverished that enables him

to acquire vocational skills so that he can become employable or able to seek a higher grade of employment.

*"Neighborhood assistance" means providing community services, education, housing assistance, or job training.*

*"Neighborhood organization" means any local, regional or statewide organization performing community services in an impoverished area or whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of §§ 501 (c) (3) and 501 (c) (4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in § 36-3.*

*"Neighborhood assistance" means furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement of any part or all of an impoverished area, or to aid the physical improvement of the homes of impoverished people.*

*"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.*

*"Professional services" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and shall include, but shall not be limited to, the personal services rendered by medical doctors, dentists, architects, professional engineers, certified public accountants and attorneys-at-law.*

§ 63.1-322. Public policy; business firms; donations.

It is hereby declared to be public policy of the Commonwealth of Virginia to encourage direct investment by business firms in offering neighborhood assistance and providing job training, education, crime prevention, and community services to make donations to neighborhood organizations to for the benefit individuals living in impoverished areas or of impoverished people.

§ 63.1-323. Proposals; regulations; tax credits authorized; amount for programs.

A. Any business firm that engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm, community services or crime prevention services in an impoverished area or for impoverished people shall receive a tax credit as provided in § 63.1-324, if neighborhood organization may submit a proposal to the Commissioner of Social Services or his designee approves the proposal of such requesting an allocation of tax credits for use by business firm or of a firms making donations to the neighborhood organization. The proposal shall set forth the program to be conducted by the neighborhood organization, the impoverished area or impoverished people selected to be assisted, the estimated amount to be invested in donated to the program and the plans for implementing the program. A copy of the proposal shall be submitted by the Commissioner of Social Services or his designee to all planning district commissions within whose boundaries the proposal will operate. The planning district commissions shall thereafter notify their respective local units of government of the contents of the proposal. Such commission or the governing body of each governmental subdivision may thereafter comment in writing on the proposal to the Commissioner or his designee. If, in the opinion of the Commissioner or his designee, a business firm's investment can more consistently meet with the purposes of this chapter if made through contributions to a nonprofit neighborhood organization, a tax credit may similarly be allowed as provided in § 63.1-324.

B. The State Board of Social Services is hereby authorized to promulgate regulations for the approval or disapproval of such proposals by business firms or neighborhood organizations and for determining the value of the donations. Such regulations shall contain a requirement that an annual audit be provided by the business firm or neighborhood organization as a prerequisite for approval. Such regulations shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations shall also provide that at least ten percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than ten percent of the available amount of tax credits, the unallocated portion of such ten percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner of Social Services or his designee approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or his designee.

D. Through June 30, 1998, the total amount of tax credit credits granted for programs approved under this chapter for each fiscal year shall not exceed \$5,250,000. From July 1, 1998, through June 30, 2000, the total amount of tax credit credits granted for programs approved under this chapter for each fiscal year shall not exceed eight million dollars; however, the \$2,750,000 annual increase in the

amount of tax credits during the period July 1, 1998, through June 30, 2000, shall be allocated to education programs conducted by neighborhood organizations. Effective July 1, 1998, for purposes of this section, impoverished areas shall meet the following criteria: (i) have twenty-five percent or more of the population with incomes below eighty percent of the median income of the locality, (ii) have an unemployment rate of at least 1.5 times the state average, or (iii) have a demonstrated floor area vacancy rate of industrial and/or commercial properties of twenty percent or more. Such allocation of the increase in the amount of tax credits to education programs shall constitute the minimum amount of tax credits to be allocated to education programs. However, if the amount of tax credits requested by neighborhood organizations for qualified education programs is less than \$2,750,000 in fiscal year 1998-1999 or fiscal year 1999-2000, the balance of such amount shall be allocated to other types of qualified programs. Tax credits shall not be authorized after fiscal year 2000.

§ 63.1-324. Tax credit; amount; limitation; carry over.

A. The Commissioner of the Department of Social Services or his designee shall certify to the Commissioner of the Department of Taxation, or in the case of public service corporations business firms subject to a license tax imposed by Chapter 26 (§ 58.1-2600 et seq.) under Article 1 (§ 58.1-2500 et seq.) of Chapter 25 or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 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 3 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 institution, partnership, S corporation, or sole proprietorship, in an amount equaling fifty percent of the total amount invested by the business firm during its taxable year in programs approved pursuant to § 63.1-323. Notwithstanding the provisions of § 63.1-325, credits granted to a clinic organized in whole or in part for the delivery of health care services without charge may be assigned by the clinic to physicians and dentists who are licensed pursuant to Title 54.1 and who provide health care services without charge within the scope of their licensure at the clinic.

B. A business firm shall be eligible for a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1, in an amount equal to forty-five percent of the value of the money, property, and professional services donated by the business firm during its taxable year to neighborhood organizations for programs approved pursuant to § 63.1-323. No tax credit of less than \$50 \$400 shall be granted for any individual proposal donation, and a business firm shall not be allowed a tax credit in excess of \$175,000 per taxable year. No tax credit shall be granted to any business firm for activities that are a part of its normal course of business donations to a neighborhood organization providing job training or education for individuals employed by the business firm. Any tax credit not usable for the period taxable year the investment donation was made may be carried over to the extent usable for the next five succeeding taxable years or until the full credit has been utilized, whichever is sooner. Credits granted to a partnership, electing small business (Subchapter S) corporation, or limited liability company shall be allocated to their individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A tax credit shall be issued by the Commissioner of Social Services to a business firm upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 63.1-323. The certification shall identify the type and value of the donation received and the business firm making the donation. A business firm shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization for an approved project are available.

§ 63.1-325. Donations of professional services.

A. Tax credits shall not be allowed under this chapter for the time spent by a self-employed person who renders A sole proprietor or partnership engaged in the business of providing professional services shall be eligible for a tax credit under this chapter based on the time spent by the proprietor or a partner, respectively, who renders professional services to a project program which has been approved for tax credit status by received an allocation of tax credits from the Commissioner of the Department of Social Services or his designee; provided, however, that an employer. The value of the professional services, for purposes of determining the amount of the tax credit allowable, rendered by the proprietor or a partner to an approved program shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

B. A business firm shall be allowed eligible for a tax credit under this chapter for the time spent by a salaried employee who renders professional services to such an approved project program. The value of the professional services, for purposes of determining the amount of tax credit allowed to an employer a business firm for time spent by his its salaried employee in rendering professional services to an approved project, shall be equal to one-half the salary that such employee was actually paid for the period of time that such employee rendered professional services to the approved project program.

*C. Notwithstanding any provision of this chapter limiting eligibility for tax credits to business firms, physicians and dentists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, at a clinic which has received an allocation of tax credits from the Commissioner of Social Services or his designee and is organized in whole or in part for the delivery of health care services without charge, shall be eligible for a tax credit pursuant to § 63.1-324 based on the time spent in providing health care services at such clinic. The value of such services, for purposes of determining the amount of the tax credit allowable, rendered by the physician or dentist shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.*