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HOUSE BILL NO. 2291

Offered January 21, 1999

A BILL to amend the Code of Virginia by adding a section numbered 10.1-2205.1 and by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.11, relating to tax credits for qualified commercial uses within historic courthouse preservation zones.

Patrons—Armstrong and Day; Senator: Reynolds

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 10.1-2205.1 and by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.11 as follows:

§ 10.1-2205.1. *Old and historic courthouses; historic courthouse preservation districts.*

A. The Board shall promulgate regulations establishing criteria for a classification of city and county circuit courthouses in the Commonwealth that recognizes their architectural, historical, and cultural importance. The criteria shall include the following elements: (i) the courthouse building serves or has served as a circuit courthouse for the city or county in which it is located; (ii) the courthouse building has served as a circuit courthouse since prior to 1900; and (iii) the courthouse building is the same structure, or reasonably conforms to the structure, that was constructed on the site prior to 1900. The regulations of the Board shall be promulgated in accordance with the Virginia Administrative Process Act (§ 9-6.14:1 et seq.).

B. The Board shall designate any courthouse building that conforms to the criteria promulgated under subsection A, upon application by the governing body of the city or county in which the courthouse is located, as a "historic courthouse."

C. The Board shall promulgate regulations establishing architectural standards for the designation, by the governing body of a locality wherein a historic courthouse preservation zone has been designated pursuant to § 58.1-439.11, of an area as an "Old and Historic District." The regulations of the Board shall be promulgated in accordance with the Virginia Administrative Process Act (§ 9-6.14:1 et seq.).

D. The Department, upon application by the governing body of a locality, shall approve the architectural standards for an Old and Historic District of a locality which satisfy the standards adopted under subsection C.

§ 58.1-439.11. *Tax credit for qualifying commercial uses in historic courthouse preservation zones.*

A. For taxable years beginning on and after January 1, 2000, but before January 1, 2005, any qualifying commercial firm shall be allowed a credit against the taxes imposed under Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 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 this title as provided in this section.

B. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. For purposes of this section:

"Business firm" has the same meaning as provided in § 63.1-321.

"Historic courthouse" means a circuit courthouse which has been designated as such by the Department of Historic Resources under § 10.1-2205.1.

"Historic courthouse preservation zone" or "zone" means an area designated as a historic courthouse preservation zone by the Department pursuant to subsection G.

"Qualified commercial firm" means a business firm that conducts a qualified commercial use within a historic courthouse preservation zone.

"Qualified commercial use" means a business activity designated as a qualified commercial use by the Department pursuant to subsection I.

D. The amount of credit for each qualifying commercial use conducted by a qualifying commercial firm in any taxable year shall be equal to the lesser of (i) \$20,000 per year or (ii) one-third of the amount of the taxes imposed with respect to the qualifying commercial use under Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 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; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title. No tax credit shall be provided unless the qualifying commercial firm conducted the qualifying commercial use during the full taxable year for which the credit is claimed. The tax credits provided by

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60 *this section shall be in addition to any tax credits allowed to a qualifying commercial use by the locality*
61 *in which its historic courthouse preservation zone is located.*

62 *E. A credit shall not be provided under this section for any qualifying commercial use for which the*
63 *qualifying commercial firm is eligible to receive a tax credit under § 59.1-280 or § 59.1-280.1.*

64 *F. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such*
65 *taxable year. Any credit not usable for the taxable year the credit was allowed may be, to the extent*
66 *usable, carried over for the next ten succeeding taxable years. No credit shall be carried back to a*
67 *preceding taxable year. If a qualified commercial firm which is subject to the tax limitation imposed*
68 *pursuant to this subsection is allowed another credit pursuant to any other section of the Code, or has a*
69 *credit carryover from a preceding taxable year, it shall be considered to have first utilized any credit*
70 *allowed which does not have a carryover provision, and then any credit which is carried forward from*
71 *a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.*

72 *G. The governing body of any city or county may make written application to the Department to*
73 *have an area within its jurisdictional limits designated as a historic courthouse preservation zone. The*
74 *application shall include a specific description of the area's location and a general statement identifying*
75 *proposed local incentives to complement applicable state and federal incentives. If the area proposed for*
76 *designation as a historic courthouse preservation zone encompasses two or more localities, all affected*
77 *localities shall submit a joint application. The Department shall designate an area described in such an*
78 *application as a historic courthouse preservation zone if, in addition to satisfying all other requirements*
79 *of this section, the area satisfies the following criteria:*

80 *1. A historic courthouse is located within the area; and*

81 *2. All portions of the area are within 1,000 feet from the outer edge of the historic courthouse.*

82 *H. Following designation of a historic courthouse preservation zone, the locality or localities in*
83 *which it is located may apply to the Department to expand or reduce the size of the zone, and the*
84 *Department is authorized to amend the boundary of a zone as requested by the locality provided that*
85 *the revised zone satisfies the requirements of this section.*

86 *I. A business firm may make written application to the Department to have its business activity*
87 *designated as a qualifying commercial use. The application shall include a certification by the*
88 *governing body of the city or county that the structure within which the business activity is conducted*
89 *satisfies the architectural standards for an Old and Historic District adopted pursuant to subsection J.*
90 *The application shall also include such other information as the Department may require in*
91 *implementing the provisions of this section. The governing body's certification that the structure in*
92 *which the business activity is conducted or maintained is compatible with its architectural standards for*
93 *an Old and Historic District shall be prima facie evidence of the business activity's eligibility for*
94 *designation as a qualifying commercial use. The Department shall designate a business activity for*
95 *which such an application has been submitted as a qualifying commercial use if, in addition to*
96 *satisfying all other requirements of this section, the business activity satisfies the following criteria:*

97 *1. The structure in which the business activity is conducted is located within a historic courthouse*
98 *preservation zone; and*

99 *2. The business activity (i) was not previously conducted within the zone by the business firm and is*
100 *conducted in a structure that is determined by the governing body of the locality to be compatible with*
101 *the architectural standards of an Old and Historic District as determined by the governing body of the*
102 *locality or (ii) was previously conducted by the business firm within the area designated as a zone*
103 *immediately prior to its being designated as a zone and is conducted in a structure which is maintained*
104 *in a manner compatible with the architectural standards of an "Old and Historic District" as determined*
105 *by the governing body of the locality.*

106 *J. The governing body of a locality wherein a zone is located shall adopt architectural standards for*
107 *an Old and Historic District which have been approved by the Department of Historic Resources under*
108 *§ 10.1-2205.1.*

109 *K. Each qualified commercial firm shall annually certify to the Department the applicability of the*
110 *tax credit provided by this section.*

111 *L. The Department of Taxation shall make all determinations as to the designation of a qualifying*
112 *commercial firm in accordance with the provisions of this section.*

113 *M. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative*
114 *Process Act (§ 9-6.14:1 et seq.), relating to the computation and carryover of the tax credit provided by*
115 *this section.*

116 **2. That the provisions of this act shall be effective for taxable years beginning on and after**
117 **January 1, 2000, but before January 1, 2005.**