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HOUSE BILL NO. 658

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact § 59.1-548 of the Code of Virginia, relating to the Enterprise Zone Grant Program; threshold for real property investment grants.

Patron—Armstrong

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 59.1-548 of the Code of Virginia is amended and reenacted as follows:**

§ 59.1-548. Enterprise zone real property investment grants.

A. As used in this section:

"Distressed locality" means any locality with an annual average unemployment rate that is one and a half times or more the statewide average unemployment rate.

"Facility" means a complex of buildings, co-located at a single physical location within an enterprise zone, all of which are necessary to facilitate the conduct of the same trade or business. This definition applies to new construction as well as to the rehabilitation and expansion of existing structures.

"Mixed use" means a building incorporating residential uses in which a minimum of 30 percent of the useable floor space will be devoted to commercial, office or industrial use.

"Qualified real property investment" means the amount properly chargeable to a capital account for improvements to rehabilitate, expand or construct depreciable real property placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$100,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$500,000 with respect to a single building or a facility in the case of new construction. In the case of distressed localities, the qualified real property investment shall equal or exceed (i) \$50,000 with respect to a single building or a facility in the case of rehabilitation or expansion, or (ii) \$250,000 with respect to a single building or a facility in the case of new construction. Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.

Qualified real property investment shall not include:

1. The cost of acquiring any real property or building.

2. Other costs including: (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer system; and (x) roads.

3. The basis of any property: (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 was previously granted; (iii) which was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iv) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014 (a).

"Qualified zone investor" means an owner or tenant of real property located within an enterprise zone who expands, rehabilitates or constructs such real property for commercial, industrial or mixed use. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the building or facility for which the tenant holds a valid lease. In the case of an owner of an individual unit within a horizontal property regime, the amounts of qualified zone investments specified in this section shall relate to that proportion of the building for which the owner holds title and not to common elements.

B. Grants shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess of \$500,000 in the case of the construction of a new building or facility or

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59 \$250,000 in the case of the construction of a new building or facility in a distressed locality. Grants
60 shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess
61 of \$100,000 in the case of the rehabilitation or expansion of an existing building or facility or \$50,000
62 in the case of the rehabilitation or expansion of an existing building or facility in a distressed locality.
63 For any qualified zone investor making \$5 million or less in qualified real property investment, a real
64 property investment grant shall not exceed \$100,000 within any five-year period for any individual
65 building or facility. For any qualified zone investor making more than \$5 million in qualified real
66 property investment, a real property investment grant shall not exceed \$200,000 within any five-year
67 period for any individual building or facility.
68 C. A qualified zone investor shall apply for a real property investment grant in the calendar year
69 following the year in which the property was placed in service.
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