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HOUSE BILL NO. 2163

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact §§ 59.1-539, 59.1-542, 59.1-545, and 58.1-548 of the Code of Virginia, relating to enterprise zone grant program.

Patron—Carr

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-539, 59.1-542, 59.1-545, and 58.1-548 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-539. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Housing and Community Development.

"Department" means the Department of Housing and Community Development.

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Enterprise zone" means an area declared by the Governor to be eligible for the benefits of this chapter.

"Local zone administrator" means the chief executive of the county or city in which the enterprise zone is located, or his designee.

§ 59.1-542. Enterprise zone designation.

A. Upon the Department's announcement of periodic zone designation competitions, the governing body of any county or city may make written application to the Department to have an area or areas declared an enterprise zone. Such application shall include a description of the area or areas to be included, the development potential of these areas, the need for special state incentives, the local incentives that shall be provided to support new economic activity, and other information that the Department deems necessary to assess requests for designation.

B. Two or more adjacent localities may file a joint application for an enterprise zone. Localities applying for a joint zone shall demonstrate a regional need for an enterprise zone and a regional impact that could not be achieved through a single jurisdiction zone. Applicants for a joint zone shall also specify what mechanisms will be used to ensure that the economic benefits of such a zone are shared among the applicant localities.

C. An enterprise zone may consist of no more than three noncontiguous areas. The aggregate size of these noncontiguous zone areas shall be as follows:

1. For cities, the minimum size of an enterprise zone shall be one-quarter square mile and the maximum size of an enterprise zone shall be one square mile or seven percent of the jurisdiction's land area or an area that includes seven percent of the population, whichever is largest.

2. For towns designated as enterprise zones under former §§ 59.1-272 through 59.1-278, 59.1-279.1, or 59.1-280.2 through 59.1-284 of the Enterprise Zone Act (§ 59.1-270 et seq.), the size of an enterprise zone shall conform to the size requirements for cities in subdivision 1.

3. For unincorporated areas of counties, the minimum size of an enterprise zone shall be one-half square mile and the maximum size of an enterprise zone shall be six square miles.

4. For consolidated cities the enterprise zones in cities for which the boundaries were created through the consolidation of a city and county or the consolidation of two cities, the enterprise zone shall conform substantially to the size requirements for unincorporated areas of counties in subdivision 3.

In no instance shall a zone consist only of a site for a single business firm. Localities shall be limited to three enterprise zone designations.

D. A joint enterprise zone shall consist of no more than three noncontiguous zone areas for each participating locality. The aggregate size of these noncontiguous areas shall be specified by regulation.

E. Upon recommendation of the Director of the Department, the Governor may designate up to 30 enterprise zones in accordance with the provisions of this chapter *and, on and after July 1, 2025, may designate up to 10 additional enterprise zones.* Such designations are to be done in coordination with the expiration of existing zones designated under earlier Enterprise Zone Program provisions. The initial round of six zone designation applications and approval may be conducted prior to adoption of final program regulations provided that the process is consistent with the provisions of this chapter. Enterprise zones shall

be designated for an initial 10-year period except as provided for in subsections A and B of § 59.1-546. Upon recommendation of the Director of the Department, the Governor may renew zones designated on or after July 1, 2005, for up to four five-year renewal periods and zones designated prior to July 1, 2005, for up to two five-year renewal periods. Recommendations for five-year renewals shall be based on the locality's performance of its enterprise zone responsibilities, the continued need for such a zone, and its effectiveness in creating jobs and capital investment. Notwithstanding any provision to the contrary, any enterprise zone in effect as of June 30, 2024, shall be extended for an additional four-year period, in addition to any renewal periods provided by this section.

F. Localities that have zone designations are responsible for providing the local incentives specified in their applications, providing timely submission of enterprise zone reports and evaluations as required by regulation, verifying that businesses and properties seeking enterprise zone incentives are physically located within their zones, and implementing an active local enterprise zone program within the context of overall economic development efforts.

§ 59.1-545. Application review.

A. After announcement of a periodic zone designation application process, the Department shall review each application upon receipt and secure any additional information that it deems necessary for the purpose of evaluating the need and potential impact of a zone designation.

B. The Department shall complete review of the applications within 60 days of the last date designated for receipt of an application. After review of the applications the Director of the Department shall recommend to the Governor those applications with the greatest potential for accomplishing the purpose of this chapter. If an application is denied, the governing body shall be informed of that fact, along with the reasons for the denial.

C. Consideration for enterprise zone designations shall be based upon the locality-wide need and impact of such a designation. Need shall be assessed in part by ~~the following distress factors: (i) the average unemployment rate for the locality over the most recent three-year period, (ii) the average median adjusted gross income for the locality over the most recent three-year period, and (iii) the average percentage of public school students within the locality receiving free or reduced price lunches over the most recent three-year period. These distress factors shall~~ *determining whether such zones are located in a distressed or double distressed locality, and such assessment shall* account for at least 50 percent of the consideration given to local governments' applications for enterprise zone designation.

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

A. As used in this section:

"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.

"Major qualified zone investor" means a qualified zone investor making qualified real property investments in excess of $20 million.

"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 expended 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. *Such real property may include a child day center as such term is defined in § 22.1-289.02.*

"Qualified real property investment" includes any such expenditure regardless of whether it is considered properly chargeable to a capital account or deductible as a business expense under federal Treasury Regulations.

*"*Qualified real property ~~investments include~~ *investment" includes* 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. *1.* 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.

Grants shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess of $100,000 in the case of the rehabilitation or expansion of an existing building or facility.

For any qualified zone investor making $5 million or less in qualified real property investment, a real property investment grant shall not exceed $100,000 within any five-year period for any individual building or facility. For any qualified zone investor making more than $5 million, *but not more than $20 million* in qualified real property investment, a real property investment grant shall not exceed $200,000 within any five-year period for any individual building or facility.

2. On and after July 1, 2025, grants to major qualified zone investors shall be calculated at a rate of 25 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.

On and after July 1, 2025, grants to major qualified zone investors shall be calculated at a rate of 25 percent of the amount of qualified real property investment in excess of $100,000 in the case of the rehabilitation or expansion of an existing building or facility.

A real property investment grant to a major qualified zone investor shall not exceed $300,000 within any five-year period for any individual building or facility.

C. A qualified zone investor shall apply for a real property investment grant in the calendar year following the year in which the property was placed in service.