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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | Department of Housing and Community Development |
| Virginia Administrative Code (VAC) citation | 13 VAC 5-111 |
| Regulation title | Enterprise Zone Program Regulation |
| Action title | Update and clarify regulatory provisions |
| Document preparation date | August 7, 2003 |

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Virginia Enterprise Zone Program provides tax incentives and job grants to qualified businesses in specially targeted areas throughout the state to encourage job creation and private investment. It was created in 1982 by the Enterprise Zone Act (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+59.1-270>) to stimulate local economic growth and neighborhood revitalization. The Enterprise Zone Program Regulations guide the designation process to select enterprise zones; the administration of enterprise zones once selected and their termination. The regulations also guide the qualification for and administration of the incentives.

The purpose of the amendment is to address legislative changes adopted by the 2003 General Assembly as well as to clarify certain aspects of the regulations for more effective implementation and ease of use.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General

Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Board of Housing and Community Development promulgates regulations for the Virginia Enterprise Zone Program in accordance with § 59.1-278 of the Code of Virginia.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

Chapter 763 of the 2003 Acts of the Assembly amended the Code of Virginia to adjust state Enterprise Zones to conform to the federal Empowerment Zones' expiration date (effective date July 1, 2003). Language to that affect will be added.

Chapter 763 of the 2003 Acts of the Assembly amended the Code of Virginia to specify how high investment/low employment firms may qualify for General Income Tax Credits (effective date July 1, 2003). A section and related definitions will be added to the regulations to reflect this.

In addition other changes are proposed for the purpose of:

- 1) Further clarifying the intent of the program and insuring that it is being met;
- 2) Providing additional guidance to program constituents;
- 3) Formalizing procedures within the regulation; and
- 4) Updating references to specific statutes; dates.

The changes to be proposed will include:

- Clarifying terms related to permanent fulltime employees/positions and net new job creation
- Clarifying terms referenced to "as defined by the IRS"
- Clarifying terms related to the occupancy requirement of the Real Property Improvement Tax Credit
- Clarifying what constitutes a qualified zone improvement
- Making consistent use of terms and definitions throughout
- Defining commonly used terms
- Clarifying the responsibilities of firms with negotiated tax credits
- Clarifying Enterprise Zone Eligibility Criteria with regard to zone size limits and non-contiguous areas
- Clarifying the public hearing process
- Clarifying the rights and responsibilities participants in joint designation applications
- Clarifying the zone amendment process
- Specifying the process for zone designation to replace terminated zones
- Clarifying business qualification periods if zone area is deleted or when zones terminate

- ❑ Clarifying the responsibilities of localities with enterprise zones and those of the local zone administrators
- ❑ Making date corrections throughout and removing outdated references
- ❑ Verifying that all state code citations are still correct

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There is no alternative to amending the regulations related to the changes in the Code of Virginia. The additional amendments will ensure consistent and uniform program implementation through the formal mechanism provided by the Regulations.

Impact on family

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

There is an indirect positive impact on the family in that the purpose of the program is to create net new jobs in distressed areas of the Commonwealth. Businesses are required to hire zone residents and/or low-income individuals in order to qualify for the general income tax credit benefit. This can encourage economic self-sufficiency and increase disposable family income.