

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 58.1-339.3 of the Code of Virginia, relating to agricultural best
2 management practices tax credit.

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

4 **1. That § 58.1-339.3 of the Code of Virginia is amended and reenacted as follows:**

5 § 58.1-339.3. Agricultural best management practices tax credit.

6 A. For all taxable years beginning on and after January 1, 1998, any individual who is engaged in
7 agricultural production for market, or has equines that create needs for agricultural best management
8 practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the
9 local Soil And Water Conservation District (SWCD), shall be allowed a credit against the tax imposed
10 by § 58.1-320 of an amount equaling 25% percent of the first \$70,000 expended for agricultural best
11 management practices by the individual.

12 For all taxable years beginning on or after January 1, 2011, such credit also shall be allowed
13 against the tax liability imposed by § 58.1-400.

14 As used in this section, "agricultural best management practice" means a practice approved by
15 the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant
16 improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent
17 with other state and federal programs that address agricultural, nonpoint-source-pollution management.
18 Eligible practices shall include, but are not limited to, the following:

- 19 1. Livestock-waste and poultry-waste management;
- 20 2. Soil erosion control;
- 21 3. Nutrient and sediment filtration and detention;
- 22 4. Nutrient management; and
- 23 5. Pest management and pesticide handling.

24 A detailed list of the standards and criteria for practices eligible for credit shall be found in the
25 most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the
26 Department of Conservation and Recreation.

27 B. Any practice approved by the local Soil and Water Conservation District Board shall be
28 completed within the taxable year in which the credit is claimed. After the practice installation has been
29 completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for
30 credit. The applicant shall forward the certification to the Department of Taxation on forms provided by
31 the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of
32 his own sources.

33 C. 1. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed
34 by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any
35 taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law
36 for costs related to the same eligible practices.

37 2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess
38 may be carried over for credit against income taxes in the next five taxable years until the total amount
39 of the tax credit has been taken. In addition, any taxpayer holding a credit under this section may
40 transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax
41 returns. A taxpayer who transfers any amount of credit under this article shall file a notification of such
42 transfer with the Department of Taxation in accordance with procedures and forms prescribed by the
43 Tax Commissioner.

44 D. For purposes of this section, the amount of any credit attributable to agricultural best
45 management practices by a pass-thru entity such as a partnership, limited liability company, or electing
46 small business corporation (S Corporation) shall be allocated to the individual partners, members, or
47 shareholders in proportion to their ownership or interest in ~~the partnership or S Corporation~~ such entity.

48 E. A pass-through tax entity, such as a partnership, limited liability company or electing small
49 business corporation (S corporation), may appoint a tax matters representative, who shall be a general

50 partner, member-manager or shareholder, and register that representative with the Tax Commissioner.
51 The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of
52 the taxpayers to whom credits have been allocated or transferred by the entity under this article with
53 respect to those credits. In the event a pass-through tax entity allocates or transfers tax credits arising
54 under this article to its partners, members or shareholders and the allocated or transferred credits shall be
55 disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be
56 made, the Tax Commissioner shall first make written demand for payment of any additional tax,
57 together with interest and penalties, from the tax matters representative. In the event such payment
58 demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in
59 accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

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