

1. When the violation charged involved or resulted in an accident or injury to property and the total damages are ~~five hundred~~ one thousand dollars or more, or in an injury to person.

Sec. 16. Section 321.274, Code 1997, is repealed.

Sec. 17. EFFECTIVE DATE. Section 5 of this Act takes effect October 1, 1998, contingent upon adoption of new regulations concerning the transportation or shipment of hazardous materials by the appropriate federal agencies.

Approved May 6, 1998

CHAPTER 1179

ENTERPRISE ZONES — ELIGIBLE HOUSING BUSINESSES AND RELATED MATTERS

H.F. 2538

AN ACT relating to eligible housing businesses qualifying for incentives and assistance in enterprise zones, providing additional incentives and assistance for approved eligible businesses located in an enterprise zone, and requiring consideration of building codes and zoning.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 15E.193A ELIGIBLE HOUSING BUSINESS.

1. A housing business qualifying under this section is eligible to receive incentives and assistance only as provided in this section. Sections 15E.193 and 15E.196 do not apply to an eligible housing business qualifying under this section.

2. An eligible housing business under this section includes a housing developer or housing contractor that builds or rehabilitates a minimum of four single-family homes with a value, after completion of the building or rehabilitation, not exceeding one hundred twenty thousand dollars for each home located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units with a total value per unit, after completion of the building or rehabilitation, not exceeding one hundred twenty thousand dollars located in that part of a city or county in which there is a designated enterprise zone.

3. The single-family homes and dwelling units which are rehabilitated or constructed by the eligible housing business shall be modest homes or units but shall include the necessary amenities. When completed and made available for occupancy, the single-family homes and dwelling units shall meet the United States department of housing and urban development's housing quality standards and local safety standards.

4. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business becoming ineligible and subject to the repayment requirements and penalties enumerated in subsection 7.

5. An eligible housing business shall provide the enterprise zone commission with all of the following information:

a. The long-term strategic plan for the housing business which shall include labor and infrastructure needs.

b. Information dealing with the benefits the housing business will bring to the area.

c. Examples of why the housing business should be considered or would be considered a good business enterprise.

d. An affidavit that it has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violation has occurred that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.

6. An eligible housing business which has been approved to receive incentives and assistance by the department of economic development pursuant to application as provided in section 15E.195 shall receive all of the following incentives and assistance for a period not to exceed ten years:

a. An eligible housing business may claim an income tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust.

b. Sales, services, and use tax refund, as provided in section 15.331A.

7. If a business has received incentives or assistance under this section and fails to maintain the requirements of this section to be an eligible housing business, the business is subject to repayment of all or a portion of the incentives and assistance that it has received. The department of revenue and finance shall have the authority to recover the value of state taxes or incentives provided under this section. The value of state incentives provided under this section includes applicable interest and penalties. The department of economic development and the city and county, as applicable, shall enter into agreement with the business specifying the method for determining the amount of incentives or assistance paid which will be repaid in the event of failure to maintain the requirements of this section. In addition, a business that fails to maintain the requirements of this section shall not receive incentives or assistance for each year during which the business is not in compliance.

8. The department of economic development and the department of revenue and finance shall each adopt rules to jointly administer this section.

Sec. 2. Section 15E.195, Code Supplement 1997, is amended to read as follows:

15E.195 ENTERPRISE ZONE COMMISSION.

1. A county in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall also review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193A. The commission shall consist of nine members. Five of these members shall consist of one representative of the board of supervisors, one member with economic development expertise chosen by the department of economic development, one representative of the county zoning board, one member of the local community college board of directors, and one representative of the local workforce development center. These five members shall select the remaining four members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining four members shall be a representative of that zone. However, if the enterprise zone qualifies under the city

criteria, one of the four members shall be a representative of an international labor organization and if an enterprise zone is located wholly or partially in any city, a representative, chosen by the city council, of each such city may shall be a member of the commission. The size of the commission shall be expanded by the number of members necessary to accommodate the appointment of a representative of each city. A county shall have only one enterprise zone commission.

2. The commission may adopt more stringent requirements, including requirements related to compensation and benefits, for a business to be eligible for incentives or assistance than provided in ~~section~~ sections 15E.193 and 15E.193A. The commission may develop as an additional requirement that preference in hiring be given to individuals who live within the enterprise zone. The commission shall work with the local workforce development center to determine the labor availability in the area. The commission shall examine and evaluate building codes and zoning in the enterprise zone and make recommendations to the appropriate governing body in an effort to promote more affordable housing development.

3. If the enterprise zone commission determines that a business qualifies ~~for inclusion in an enterprise zone~~ and is eligible to receive incentives or assistance as provided in either section 15E.193A or section 15E.196, the commission shall submit an application for incentives or assistance to the department of economic development. The department may approve, defer, or deny the application.

4. In making its decision, the commission or department shall consider the impact of the eligible business on other businesses in competition with it and compare the compensation package of businesses in competition with the business being considered for incentives or assistance. The commission or department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for incentives or assistance. The commission or department shall also make a good faith effort to determine the probability that the proposed incentives or assistance will displace employees of existing businesses. In determining the impact on businesses in competition with the business seeking incentives or assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

However, if the commission or department finds that an eligible business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the eligible business shall not qualify for incentives or assistance under section 15E.193A or section 15E.196, unless the commission or department finds that the violations did not seriously affect public health or safety or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether an eligible business is eligible for incentives or assistance under section 15E.193A or section 15E.196, the commission or department shall be exempt from chapter 17A. If requested by the commission or department, the business shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings and any other information which would assist the commission or department in assessing the nature of any violation.

5. A business that is approved to receive incentives or assistance shall, for the length of its designation as an enterprise zone business, certify annually to the county or city, as applicable, and the department of economic development its compliance with the requirements of either section 15E.193 or section 15E.193A.

Sec. 3. Section 15E.196, subsection 1, Code Supplement 1997, is amended to read as follows:

1. a. New jobs credit from withholding, as provided in section 15.331.

b. (1) As an alternative to paragraph "a", a business may provide a housing assistance program in the form of down payment assistance or rental assistance for employees in new jobs, as defined in section 260E.2, who buy or rent housing located within any certified

enterprise zone. A business establishing a housing assistance program shall fund this program through a credit from withholding based on the wages paid to the employees participating in the housing assistance program. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in the housing assistance program shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall deposit the amount of the credit quarterly into a housing assistance fund created by the business out of which the business shall provide employees enrolled in the housing assistance program with down payment assistance or rental assistance.

(2) A business may enter into an agreement with the county or city designating the enterprise zone pursuant to section 15E.194 to borrow initial moneys to fund a housing assistance program. The county or city may appropriate from the general fund of the county or city for the assistance program an amount not to exceed an amount estimated by the department of revenue and finance to be equal to the total amount of credit from withholding for employees determined by the business to be enrolled in the program during the first two years. The business shall pay the principal and interest on the loan out of moneys received from the credit from withholding provided for in subparagraph (1). The terms of the loan agreement shall include the principal amount, the interest rate, the terms of repayment, and the term of the loan. The terms of the loan agreement shall not extend beyond the period during which the enterprise zone is certified.

(3) The employer shall certify to the department of revenue and finance that the credit from withholding is in accordance with an agreement and shall provide other information the department may require.

(4) An employee participating in the housing assistance program will receive full credit for the amount withheld as provided in section 422.16.

Approved May 6, 1998

CHAPTER 1180

WASTE TIRES AND TIRE-DERIVED FUELS

H.F. 2546

AN ACT relating to waste tires and tire-derived fuels.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455D.11A, subsection 3, Code Supplement 1997, is amended to read as follows:

3. Financial assurance instruments may include instruments such as cash or surety bond, a letter of credit in a form prescribed by the department, ~~or a secured trust fund, a corporate guarantee, or a combination of such instruments and guarantees sufficient to satisfy the requirements of subsection 5.~~ The department may request an annual audit, which shall remain confidential, to be performed by a third party.

Sec. 2. Section 455D.11A, subsection 5, Code Supplement 1997, is amended to read as follows:

5. Financial assurance shall be provided in the amounts as follows: