



## Legislation Text

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**File #:** ORD. 2020-239, **Version:** 1

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To amend and reordain City Code § 26-874, concerning a business license incentive program for qualifying businesses, for the purpose of revising the definition of a qualifying business, adding the incentive of a refund, and requiring a business to apply to qualify for the program within two years from the date the business located in the city.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 26-874 of the Code of the City of Richmond (2015), as amended, be and is hereby **amended** and reordained as follows:

**Sec. 26-874. Business License Incentive Program for qualifying businesses.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Acquisition* means the combination of two or more existing businesses where one business acquires the ownership of the other business or businesses.

*Business license year* means a calendar year.

*Change in business form* means a change in the organization of an existing business. A change in business form occurs whether such change is voluntary or involuntary and whether such change is recognized by the State Corporation Commission or not recognized by the State Corporation Commission. A change in business form includes a new business entity that meets the definition of "affiliated group," as that term is defined in Code of Virginia, § 58.1-3700.1, where such business conducts business activities that are similar to one or more of the affiliated businesses. However, a new business entity that meets such definition of "affiliated group" but conducts substantially different business activities shall not be treated as a change in business form.

*Merger* means the combination of two or more existing businesses to establish a new business.

*Name change* means a change in the name upon which a business trades. A name change occurs whether

or not the business registers such name or change of name with the State Corporation Commission.

*Qualifying business* means a business that locates for the first time in the City of Richmond [~~after the effective date of the ordinance from which this section is derived~~]. A business shall not be deemed to locate in the City for the first time based on a merger, acquisition, similar business combination, name change, or a change in business form. A business shall not be deemed to locate in the City for the first time if there is an existing business in the City trading under the same or substantially similar business name, the businesses conduct similar business activities, or the businesses are related either by a shared ownership structure or by a contractual relationship such as a franchisor/franchisee relationship. A qualifying business shall not include peddlers and itinerant merchants. A qualifying business shall not include a contractor required to obtain a business license by Code of Virginia, § 58.1-3715(B). When applying for any benefit afforded under this section, the applicant shall have the burden of proving qualification as a qualifying business.

*Similar business combination* means any transaction that has the effect of combining one or more businesses into a single business but is not of the same nature as a merger or an acquisition.

(b) *Business license tax exemption or refund.* Beginning on or after the effective date of the ordinance from which this section is derived, [A] a qualifying business that would otherwise be required to pay license taxes pursuant to Sections 26-868 and 26-871 shall be exempt from the payment of such business license taxes and only shall pay a license fee as set forth in Appendix A to this Code. In the event that the a business has already paid license taxes required pursuant to sections 26-868 and 26-871, a qualifying business shall be entitled to a refund of those license taxes already paid. The license tax exemption or refund provided in this section shall apply to the business license year in which the qualifying business locates in the City and to the following business license year. The exemption or refund provided herein shall not exceed a period of two business license years. A qualifying business shall forfeit any entitlement to the license tax reduction or refund provided in this section if such business is delinquent on any local tax, including, but not limited to, personal property taxes, real property taxes, admissions taxes, meals taxes, or transient occupancy taxes.

(c) *Application and appeal.* Any business seeking to qualify as a qualifying business shall complete an application in writing within two years from the date the business first located in the city. The application shall be on forms developed by the Director of Finance. Any determination of qualification or of non-qualification as a qualifying business shall be in writing by the Director of Finance. The appeal of a determination of non-qualification shall follow the appeal process of any other business license tax decision.

(d) *Limitation.* Nothing in this section shall be construed to repeal any requirement of businesses within the City to maintain records or comply with an audit by the Director of Finance. A qualifying business shall report its personal property and gross receipts to the Director of Finance, at such times and in such manner as required by law, and the failure to timely report shall result in the forfeiture of any entitlement to the license tax reduction provided in Subsection (b) of this section.

(e) *Construction.* The Business License Tax Incentive Program provided herein is in the nature of a partial tax exemption. As such, the rule of construction provided by Article X, Section 6(f) of the Constitution of Virginia shall apply.

§ 2. This ordinance shall be in force and effect upon adoption.