

DEPARTMENT OF TAXATION

2001 Fiscal Impact Statement

1. **Patron** Drake

2. **Bill Number** HB 2145

3. **Committee** Passed Senate and House

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Low-Income Housing Tax Credit

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would make the following changes to the low-income housing tax credit:

- ◆ The maximum amount of tax credits that can be authorized annually would be reduced from \$3.5 million to \$500,000;
- ◆ Taxpayers would be allowed to take the credit against the bank franchise tax and the gross receipts tax on insurance premiums;
- ◆ Taxpayers would be allowed the tax credit in any five taxable years in which a federal low-income housing tax credit is allowed instead of the first five taxable years that the federal credit is allowed;
- ◆ Partners and S-corporation shareholders would be allowed to allocate the credits either in proportion to their ownership interests or as they mutually agree; and,
- ◆ Taxpayers would be allowed to carry over any unused credit for 5 taxable years or until the full credit is used, whichever occurs first.

This bill would be effective on taxable years beginning on or after January 1, 2001.

6. **Fiscal Impact Estimates are:** Not Available. (See Line 8.)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2000-01	\$0	GF
2001-02	\$112,703	GF
2002-03	\$0	GF

7. **Budget amendment necessary:** Yes.

ITEM(S): 279 and 281, Department of Taxation

8. Fiscal implications:

The department would incur \$112,703 in administrative costs in FY 02 to implement this bill. These costs are for necessary systems upgrades to enable the department to track the five-year carryover created by this legislation.

The impact of this bill on General Fund Revenues is unknown. According to the Department of Housing and Community Development, low-income housing tax credits of \$270,000 were approved for the 1999 taxable year. Many of the changes proposed in this bill could increase the utilization of the low-income housing tax credit. However, this bill also would reduce the maximum amount of tax credits that can be authorized annually from \$3.5 million to \$500,000.

9. Specific agency or political subdivisions affected:

Department of Taxation

Department of Housing and Community Development

10. Technical amendment necessary: None.

11. Other comments:

Background

The low-income housing tax credit was enacted in 1989, however, its effective date was deferred four times until it became effective in 1998. The credit may be taken against the individual, estate, fiduciary, and corporate income taxes. The credit may only be taken during the first five years in which the federal low-income housing tax credit is allowed. The credit is equal to a percentage of the federal low-income housing credit taken by the taxpayer on their federal return. The percentage is determined by the Department of Housing and Community Development ("DHCD"). The maximum amount of credits available is limited to \$3.5 million annually.

In order to claim the low-income housing credit, the person must apply to DHCD for approval. Upon approval, DHCD provides the person with a certification that must be attached to the person's income tax return filed with TAX.

Proposal

This bill would decrease the maximum amount of credits available annually to \$500,000. This bill would also allow the tax credit in any five taxable years in which a federal low-income housing tax credit is allowed instead of only the first five taxable years that such credit was allowed.

Carryover Provision

Credits may exceed a taxpayer's tax liability in the year earned. In order that taxpayers do not lose their excess credits, certain credits may be carried over for a period of years and used to offset future tax liability. There are 28 Virginia tax credits in effect that specify a carryover period. The remaining credits are either limited to tax liability in the year earned or are refundable to the extent they exceed tax liability.

The following table illustrates the carryover periods for Virginia income tax credits with a carryover period:

Credit Carryover Period	Number of Credits
3 years	4
5 years	15
10 years	6
15 years	1
20 years	1
Unlimited years	1

This bill would create a carryover period for the low-income housing tax credit of five years.

Expansion of Eligible Taxes

This bill would expand the existing Low-Income Housing Tax Credit to allow banks and insurance companies to claim the credit against their respective taxes.

Under current law, the tax credit can only be claimed against estate, fiduciary, individual and corporate income taxes. The department has previously interpreted this credit to be applicable against the estate and fiduciary income tax. This bill would add language that would clarify this interpretation.

Partnerships and S Corporations

This bill would amend the Low-Income Housing Tax Credit to allow credits granted to partners or shareholders of S corporations to be allocated among the partners and shareholders as they mutually agree. Such arrangement would have to be outlined by the parties involved in an executed document prescribed by DHCD.

Under current law, credits granted to partners and shareholders must be allocated according to the partners' or shareholders' ownership interest in the entity.

Other Legislation

Senate Bill 1325 is identical to this bill.

cc: Secretary of Finance

Date: 3/22/01/CT

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