

**DEPARTMENT OF TAXATION
2001 Fiscal Impact Statement**

1. **Patron** Drake

3. **Committee** Senate Finance

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

2. **Bill Number** HB 2145

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 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, the gross receipts tax on insurance premiums, and the license tax imposed on telegraph, telephone, water, heat, light, power, and pipeline companies;
- ◆ 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.)

7. Budget amendment necessary: No.

8. Fiscal implications:

While this bill does have costs associated with systems development, these cannot be ascertained at this time. The cost for implementing a **single** piece of legislation cannot

be calculated precisely due to economies of scale. The actual cost to implement **all** legislation enacted during a given session will more than likely be less than the sum of the costs attributed to individual bills. Further, the ability to accurately predict costs is complicated because TAX is replacing its current database system. As a result, legislative changes may need to be made to both the current and the future system, depending on the effective date. Therefore, TAX is not providing specific systems costs for this bill, but will calculate the total for all tax bills once they have been acted upon favorably in both houses and prior to the conference committee report. Other administrative costs to implement this bill would be minimal.

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, 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, insurance companies, and telegraph, telephone, water, heat, light, power, and pipeline 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 will be identical to this bill if the suggested amendments to SB 1325 are accepted.

cc: Secretary of Finance

Date: 2/9/01/CT

Document: S:\2001leg\WorkInProgress\OTPwork\House Bills\HB2145FEH1161.doc