DEPARTMENT OF TAXATION
2006 Fiscal Impact Statement

1. Patron Mary Margaret Whipple

2. Bill Number SB 279

House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

3. Committee Senate Finance

4. Title Community Housing Tax Credit

5. Summary/Purpose:

This bill would establish a tax credit that would replace the current low-income housing tax credit. Any developer or investor who builds or substantially rehabilitates a multifamily housing project that qualifies for the federal low-income housing tax credit would be eligible for a tax credit equal to 50% of the cost to acquire the land for the multifamily housing project. The credit would not exceed an amount equal to $5,000 multiplied by the number of low-income housing units placed in service as a result of the project. The developer or investor would not be able to claim more than $500,000 in tax credit in any taxable year. The credit would have a five-year carryover period. Any unused credit could be transferred to another taxpayer for use on a Virginia income tax return. The Board of Housing and Community Development would be required to promulgate guidelines for the credit.

This bill would be effective for taxable years beginning on and after January 1, 2006

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

7. Budget amendment necessary:

8. Fiscal implications:

This bill would result in a revenue loss of unknown magnitude. Although this bill raises the cap on credits by $9.5 million annually, the amount of credits claimed in some years could exceed that amount because of carryovers and transferred credits.

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as “routine,” and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not “routine.” Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

9. Specific agency or political subdivisions affected:

Department of Housing and Community Development
Department of Taxation
State Corporation Commission

10. Technical amendment necessary: Yes.

To encourage electronic filing (which cannot accommodate paper attachments), the following technical amendments are suggested:

Page 4, Line 236, after year
Strike: . The developer or investor shall attach the certification form to the Virginia tax return filed with the Department of Taxation or the State Corporation Commission, as applicable.
Insert: in accordance with procedures and processes developed by the Department of Taxation.

11. Other comments:

Current Law

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, corporate, fiduciary, bank franchise taxes as well as the gross receipts tax on insurance premiums and the license tax imposed on public service companies. The maximum amount of credits that can be authorized annually is $500,000. The amount of any single credit is a percentage of federal low-income tax credit claimed for the taxable year, as set by the Board of Housing and Community Development. Taxpayers are allowed the tax credit in any five taxable years in which a federal low-income housing tax credit is allowed. Pass through entities are allowed to allocate the credits either in proportion to their ownership interests or as they mutually agree.

Proposal

This bill would prevent the Department of Housing and Community Development from approving low-income housing credits pursuant to the current law for housing units placed in service on or after January 1, 2006. In addition, only those persons who were approved by the Department to receive a credit under the current law for their taxable year beginning in calendar year 2005 shall be eligible to receive credit under the current law for taxable years 2006 and thereafter, and only for those housing units for which the Department approved credit under the current law for taxable year 2005.

This bill would also create a new low-income housing tax credit program. The Community Housing Tax Credit would be available to any developer or investor who builds or substantially rehabilitates a multifamily housing project that qualifies under the federal Low

Income Housing Tax Credit Program (LIHTC) administered by the Virginia Housing Development Authority. The credit may be taken against the individual, corporate, fiduciary, bank franchise taxes as well as the gross receipts tax on insurance premiums and the license tax imposed on public service companies.

The credit would equal 50% of the actual amount expended by the developer or investor to acquire the land for such multifamily housing project, but would not exceed an amount equal to $5,000 multiplied by the number of units of low-income housing placed in service that qualify under the federal LIHTC. Further, the total amount of credits claimed by a taxpayer in one year shall not exceed the lesser of the tax imposed for the taxable year or $500,000. Any credit not used may be carried over for the next five taxable years, or may be transferred for use by another taxpayer on a Virginia income tax return.

The total amount of credits available to all such developers or investors shall not exceed $10 million each fiscal year.

The Board of the Department of Housing and Community Development would promulgate regulations regarding the claiming and transferring of credits.

The land that is the subject of the tax credit shall not again be the subject of a tax credit under this section for at least 15 years from when the credit is first allowed. If any multifamily housing for which a credit has been allowed under this section is not operated in compliance with the provisions of § 42 if the Internal Revenue Code, with the 15 years that immediately follow the taxable year, the Department of Taxation or the State Corporation Commission, as applicable, shall recapture the entire amount of any credit claimed from the taxpayer who actually claimed the credit.

Pass through entities are allowed to allocate the credits either in proportion to their ownership interests or as they mutually agree.

The effective date of this bill is not specified.

Other Legislation

This bill is identical to **HB 1174**.

cc : Secretary of Finance

Date: 02/02/2006 PTR
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