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SENATE BILL NO. 906

Offered January 14, 2009

Prefiled January 5, 2009

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.12, relating to a homebuyer income tax credit.

Patrons—Stosch and Watkins; Delegates: Ingram, Massie, O'Bannon and Peace

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.12 as follows:

§ 58.1-339.12. Homebuyer tax credit.

A. For purposes of this section:

"Eligible taxpayer" means an individual whose federal adjusted gross income for the taxable year in which the qualified purchase was made does not exceed (i) \$150,000 for taxpayers who are married filing jointly for purposes of the Virginia individual income tax, or (ii) \$75,000 for taxpayers filing as single or as married filing separately for purposes of the Virginia individual income tax. In addition, the individual and his spouse, if married, shall have had no present ownership interest in a principal residence during the three-year period ending on the purchase date of the principal residence to which the credit allowed under this section is applicable.

"Principal residence" means the same as such term is defined in § 36(c) of the Internal Revenue Code of 1954, as amended or renumbered.

"Purchase" means the same as such term is defined in § 36(c) of the Internal Revenue Code of 1954, as amended or renumbered.

"Qualified purchase" means the purchase of a principal residence in the Commonwealth by an eligible taxpayer or taxpayers.

B. For taxable years beginning on or after January 1, 2009, but before January 1, 2011, any eligible taxpayer who makes a qualified purchase during the taxable year shall be allowed a credit against the tax imposed by Article 2 (§ 58.1-320 et seq.) of this chapter for such taxable year equal to \$2,500 for eligible taxpayers filing as single or as married filing separately and \$5,000 for eligible taxpayers who are married filing jointly.

C. A principal residence that is constructed by a taxpayer shall be treated as purchased by the taxpayer on the date that the taxpayer first occupies such residence.

D. If the amount of the credit exceeds the taxpayer's individual income tax liability for the taxable year in which the qualified purchase was made, the excess may be carried over for credit against the individual income tax in the next five taxable years until the total amount of the tax credit has been taken.

E. Notwithstanding any other provision of this section, if within two years from the date of purchase of the principal residence the taxpayer disposes of the residence (or such residence ceases to be the principal residence of the taxpayer and, if married, the taxpayer's spouse), all credit claimed under this section shall be recaptured. No recapture shall apply in the case of (i) any residence that is compulsorily or involuntarily converted within the meaning of § 1033(a) of the Internal Revenue Code of 1954, as amended or renumbered, (ii) a transfer of a residence to which § 1041(a) of the Internal Revenue Code of 1954, as amended or renumbered, applies, or (iii) the taxpayer's death. The Tax Commissioner shall develop guidelines for the recapture of any credit, which guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

INTRODUCED

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