DEPARTMENT OF TAXATION
2009 Fiscal Impact Statement

1. Patron Christopher K. Peace

2. Bill Number HB 1808

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

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

3. Committee House Finance

4. Title Individual Income Tax; Homebuyer Credit.

5. Summary/Purpose:

This bill would allow any eligible taxpayer who makes a qualified purchase of a principle residence to claim a credit against individual income taxes equal to $2,500 for single taxpayers or married taxpayers filing separately and $5,000 for taxpayers who are married filing jointly. If the amount of the credit exceeds the taxpayer's liability for a taxable year, the excess would be carried over for up to five taxable years. This bill would be applicable to qualified purchases made on or after January 1, 2009, but before January 1, 2011.

If 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) within two years from the date of purchase of the principal residence, all credit claimed would be recaptured. No recapture will 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 and renumbered, (ii) a transfer of a residence to a spouse or former spouse if the transfer is incident to the divorce, or (iii) the taxpayer's death.

6. Fiscal Impact Estimates are: Tentative. (See Line 8.)

6b. Revenue Impact:

Fiscal Year	*Dollars*	*Fund*
2008-09	$0	GF
2009-10	($109.9 million)	GF
2010-11	($149.4 million)	GF
2011-12	($50.4 million)	GF
2012-13	($13.6 million)	GF
2013-14	($4.4 million)	GF
2014-15	($3.5 million)	GF

7. **Budget amendment necessary:** Yes.
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8. **Fiscal implications:**

   Administrative Costs

   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.

   Revenue Impact

   According to the Census Bureau's 2005 American Housing Survey (AHS), approximately 2.4 million new households bought their first homes during 2005 nationwide. Using historical data and the current forecast by the National Association of Realtors, it was estimated that there will be approximately 48,000 purchases of homes by first time homebuyers in Virginia in 2009 and 2010.

   Using AHS survey data to analyze characteristics of first time homebuyers, including marital status and income levels, it is estimated that this bill would reduce General Fund revenues by $109.9 million in Fiscal Year 2010, $149.4 million in Fiscal Year 2011, $50.4 million in Fiscal Year 2012, $13.6 million in Fiscal Year 2013, $ 4.4 million in Fiscal Year 2014, and $3.5 million in Fiscal Year 2015. This estimate is tentative, however, because it is based on national data and because of the volatility of the current housing market and financial institutions.

9. **Specific agency or political subdivisions affected:**

   Department of Taxation

10. **Technical amendment necessary:** No.

11. **Other comments:**

    Federal Tax Provisions

    The Housing and Economic Recovery Act of 2008, H.R. 3221, created a refundable tax credit for a taxpayer who is a first-time homebuyer. The credit is equal to the lesser of $7,500 ($3,750 for a married individual filing separately) or 10 percent of the purchase price of a principal residence. A taxpayer is considered a first-time homebuyer if such individual had no ownership interest in a principal residence in the United States during the 3-year period prior to the purchase of the home to which the credit applies. The credit is recaptured ratably over fifteen years with no interest charge beginning in the second taxable year after the taxable year in which the home is purchased.

Additionally, taxpayers claiming itemized deductions may be allowed to deduct home mortgage interest. Home mortgage interest is interest a taxpayer pays on a loan secured by the taxpayer's main home or second home. In addition, taxpayers may be allowed to deduct amounts paid for qualified mortgage insurance premiums. These itemized deductions will also flow through to the Virginia income tax return.

Proposal

This bill would allow any eligible taxpayer who makes a qualified purchase of a principle residence to claim a credit against individual income taxes equal to $2,500 for single taxpayers or married taxpayers filing separately and $5,000 for taxpayers who are married filing jointly. This bill would be applicable to qualified purchases made on or after January 1, 2009, but before January 1, 2011.

An "eligible taxpayer" would be defined as an individual whose federal adjusted gross income for the taxable year in which the qualified purchase was made does not exceed $150,000 for taxpayers who are married filing jointly, or $75,000 for taxpayers filing as single or married filing separately. In addition, the individual and his spouse, if married, would be required to have no present ownership interest in a principal residence during the three-year period ending on the purchase date of the principal residence for which the credit is applicable.

A "principal residence" would be defined as the same as the term is defined in § 36(c) of the Internal Revenue Code of 1954, as amended and renumbered.

A "purchase" would be defined as the same as the term is defined in § 36(c) of the Internal Revenue Code of 1954, as amended and renumbered. A principal residence that is constructed by a taxpayer would be treated as purchased by the taxpayer on the date that the taxpayer first occupied such residence.

A "qualified purchase" would be defined as the purchase of a principal residence in the Commonwealth by an eligible taxpayer or taxpayers.

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 could be carried over for credit in the next five taxable years until the total amount of the tax credit has been taken.

If 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) within two years from the date of purchase of the principal residence, all credit claimed would be recaptured. No recapture will 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 and renumbered, (ii) a transfer of a residence to a spouse or former spouse if the transfer is incident to the divorce, or (iii) the taxpayer's death. The Tax Commissioner would be required to develop guidelines for the recapture of any credit; and the guidelines would be exempt from the Administrative Process Act.

Similar Bills

House Bill 1721 would allow any eligible taxpayer who makes a qualified purchase of a house to claim a credit against individual income taxes equal to $1,250 for single taxpayers and $2,500 for joint filers. In the first taxable year during which no credit remained to be taken, the taxpayer would be required to repay the total amount of the credit over a period not to exceed the next 10 taxable years by submitting an annual repayment with his income tax return. This bill would be applicable to qualified purchases made on or after January 1, 2009, but before January 1, 2010.

Senate Bill 906 is identical to this bill.

cc : Secretary of Finance

Date: 1/16/2009 JKL
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