DEPARTMENT OF TAXATION
2009 Fiscal Impact Statement

1. Patron Walter A. Stosch

2. Bill Number SB 906
House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
__X__ **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 principal 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.

The credit could be recaptured if the taxpayer disposed of the residence within two years from the date of purchase.

This bill would provide that the tax credit could not become effective unless a federal stimulus bill is enacted into law prior to March 27, 2009. In addition, this bill would not be effective unless the federal legislation allows for this tax credit to be a lawful use for any supplemental appropriations provided by the legislation in an amount at least equal to the combined anticipated negative fiscal impact on revenue for Fiscal Years 2010 and 2011. The Secretary of Finance would be required to notify the Governor in writing whether these conditions have been met by April 1, 2009.

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.
<u>Page 1, Revenue Estimates</u>

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. TAX considers implementation of this bill as "routine," and does not require additional funding.

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.

The tax credit could not become effective unless a federal stimulus bill is enacted into law prior to March 27, 2009. In addition, this tax credit would not be effective unless the federal legislation allowes this credit to be a lawful use for any supplemental appropriations provided by the legislation in an amount at least equal to the combined anticipated negative fiscal impact on revenue for Fiscal Years 2010 and 2011. Therefore, if these conditions were met, this bill would reduce the amount of any available supplemental appropriations by a total of at least $259.3 million.

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 principal 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 used for the purposes of the federal exclusion for the gain from a sale of a principal residence.

A "purchase" would be defined as any acquisition, except those in which the property is acquired from a person related to the taxpayer acquiring the property. In addition, there are certain other restrictions regarding the basis of the property.

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, (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.

This bill would provide that the tax credit could not become effective unless federal legislation that makes supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and state and local fiscal stabilization is enacted into law prior to March 27, 2009. In addition, this bill would not be effective unless the federal legislation allows this tax credit to be a lawful use for such appropriations in an amount at least equal to the combined anticipated negative fiscal impact on revenue for Fiscal Years 2010 and 2011. The Secretary of Finance would be required to notify the Governor in writing whether these conditions have been met by April 1, 2009.

On February 10, 2009, the U.S. Senate passed its version of H.R. 1, the American Recovery and Reinvestment Act of 2009. The Senate's bill differs in many ways from the version of the bill passed by the U.S. House of Representatives on January 28. The two versions of the bill will have to be reconciled before Congress can pass it and send it to President Obama for his signature. In order for this bill to become effective, President Obama would have to sign a federal stimulus bill by March 27, 2009.

cc : Secretary of Finance

Date: 2/10/2009 JKL
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