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HOUSE BILL NO. 1950

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 58.1-339.7 of the Code of Virginia, relating to the livable home tax credit.

Patrons—Villanueva, Cleaveland, Garrett, Hope, Keam, Orrock and Pogge

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Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-339.7 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-339.7. Livable Home Tax Credit.

A. For taxable years beginning on and after January 1, 2000, any taxpayer who purchases a new residence or retrofits or hires someone to retrofit an existing residence, provided that such new residence or the retrofitting of such existing residence is designed to improve accessibility, provide universal visitability, and meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development, shall be allowed a credit against the tax imposed pursuant to § 58.1-320 of an amount equal to $500, or $2,000 for taxable years beginning on or after January 1, 2010, for such new residence or 25 percent of the total amount spent for the retrofitting of such existing residence. For taxable years beginning on or after January 1, 2010, the 25 percent shall increase to 50 percent. The amount of the credit allowed for the retrofitting of an existing residence shall not exceed $500, or $2,000 for taxable years beginning on or after January 1, 2010. Such a credit shall require application by the taxpayer as provided in subsection C. For purposes of this section, the purchase of a new residence means a transaction involving the first sale of a residence or dwelling. *The provisions of this subsection shall not be applicable for taxable years beginning on or after January 1, 2011.*

B. ~~In no event, however, shall the credit allowed under subsection A exceed the total amount of tax imposed by this chapter in the year in which such purchase or retrofitting is completed. If the amount of the credit exceeds the taxpayer's tax liability for such tax year, the amount that exceeds such liability may be carried over for credit by the taxpayer in the next five taxable years until the total amount of the tax credit has been taken.~~ *For taxable years beginning on or after January 1, 2011, an individual shall be allowed a credit against the tax imposed by § 58.1-320 for a portion of the total purchase price paid by him for a new residence or the total amount expended by him to retrofit an existing residence, provided that the new residence or the retrofitting of the existing residence is designed to improve accessibility, provide universal visitability, and meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. In addition, a real estate developer shall be allowed a credit against the tax imposed by § 58.1-320 or 58.1-400 for a portion of the total amount it expended in constructing a new residential structure or unit or retrofitting or renovating an existing residential structure or unit, provided that the new residential structure or unit or the retrofitting or renovating of the existing residential structure or unit is designed to improve accessibility, provide universal visitability, and meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development.*

The credit shall be allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed. The credit allowed under this section shall not exceed (i) $5,000 for the purchase of each new residence or the construction of each new residential structure or unit or (ii) 50 percent of the total amount expended, but not to exceed $5,000, for the retrofitting or renovation of each existing residence or residential structure or unit.

No credit shall be allowed under this section for the purchase, construction, retrofitting, or renovation of residential rental property.

C. Eligible taxpayers shall apply for the credit by making application to the Department of Housing and Community Development. The Department of Housing and Community Development shall issue a certification for an approved application to the taxpayer. The taxpayer shall attach the certification to the ~~individual~~ *applicable* income tax return. The total amount of tax credits granted under this section for any ~~taxable~~ *fiscal* year shall not exceed $1 million. *In each year, the Department of Housing and Community Development shall allocate $500,000 in tax credits for the purchase or construction of new residences and $500,000 in tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the purchase or construction of new residences is less than $500,000, the Director of the Department of Housing and*

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Community Development shall allocate the remaining balance of such tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the retrofitting or renovation of existing residences or residential structures or units is less than $500,000, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the purchase or construction of a new residences. In the event applications for the tax credit exceed the ~~$1 million~~ amount *allocated by the Director for the fiscal year*, the Department of Housing and Community Development shall ~~apportion the money by dividing the $1 million by the total amount of tax credits applied for to determine the percentage each taxpayer shall receive~~ *issue the tax credits pro rata based upon the amount of tax credit approved for each taxpayer and the amount of tax credits allocated by the Director*.

In no case shall the Director issue any tax credits relating to transactions or dealings between affiliated entities. In no case shall the Director issue any tax credits more than once to the same or different persons relating to the same retrofitting, renovation, or construction project.

D. In no case shall the amount of credit taken by a taxpayer pursuant to this section exceed the taxpayer's income tax liability for the taxable year. If the amount of credit allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed exceeds the taxpayer's income tax liability imposed for such taxable year, then the amount that exceeds the tax liability may be carried over for credit against the income taxes of such taxpayer in the next seven taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.