DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron Luke E. Torian

2. Bill Number HB 2003

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

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

3. Committee House Finance

4. Title Income Tax; Commercial and Industrial Building Rehabilitation Tax Credit.

5. Summary/Purpose:

This bill would create an income tax credit for both individuals and corporations that rehabilitate or retrofit existing commercial buildings that are at least 25 years old and have been vacant for at least 3 years or existing industrial buildings that are at least 25 years old and have been vacant for at least 5 years. The tax credit would be equal to the entire amount paid or incurred by the company during the taxable year for the purpose of rehabilitating or retrofitting the building, but could not exceed an aggregate of $100,000, regardless of the taxable year or years in which the company rehabilitates or retrofits the building. No tax credit would be allowed if any part of the rehabilitation or retrofitting of the building is designed for residential uses. In order to qualify, the company would have to move its new business into a rehabilitated commercial or industrial building and be new to the locality in which the commercial or industrial building is located.

Any unused tax credits would be allowed to be carried over for credit against the income taxes imposed on the company in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner. No business would be eligible to claim this tax credit if the company is claiming or has claimed the Historic Rehabilitation Tax Credit or if it has been awarded an Enterprise Zone Real Property Investment Grant for the same rehabilitation or retrofitting expenses.

The bill would be effective for taxable years beginning on and after January 1, 2013, but before January 1, 2018.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not Available. (See Line 8.)

8. Fiscal implications:

<u>Administrative Costs</u>

The Department of Taxation ("the Department") 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, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department 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, the Department will identify the costs at that time.

Revenue Impact

The negative impact on General Fund revenue is unknown, but could potentially be significant beginning in Fiscal Year 2014. No data is available on the number of businesses that intend to rehabilitate and locate their business in a commercial or industrial building that is at least 25 years old. Further, the average cost to retrofit or rehabilitate a commercial or industrial building that is at least 25 years old is unknown.

The Historic Rehabilitation Tax Credit allows a tax credit for the rehabilitation of a certified historic structure. In order for a taxpayer to claim the Historic Rehabilitation Tax Credit, the rehabilitation must meet certain standards and be approved by the Department of Historic Resources. Despite those requirements, in Fiscal Year 2012, 1,154 taxpayers claimed the Historic Rehabilitation Tax Credit for an approximate total of $59.2 million. This bill's negative impact on General Fund revenue could be significant and may reach or exceed the level of the Historic Rehabilitation Tax Credit because such rehabilitations would not be subject to the standards or to an approval process such as the one in place for the Historic Rehabilitation Tax Credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary:

In order to receive a tax credit under this bill, a company establishing a new business in Virginia must locate its business in an existing commercial building that is at least 25 years old and has been vacant for at least 3 years or in an existing industrial building that is at least 25 years old and has been vacant for at least 5 years. The bill does not specify when the 3 or 5 years of vacancy must occur. Accordingly, the Department suggests the following technical amendments:

Line 17, after commercial building, for
Strike: at least
Insert: the immediately preceding

Line 17, after industrial building, for
Strike: at least
Insert: the immediately preceding

11. Other comments:

Current Law

The Historic Rehabilitation Tax Credit allows a tax credit equal to 25 percent of the eligible expenses incurred in the rehabilitation of a certified historic structure. The tax credit is available against the Individual Income Tax, Fiduciary Income Tax, Corporate Income Tax, Bank Franchise Tax, Insurance Premiums License Tax, or State License Tax on Public Service Corporations. Upon application by a taxpayer, the Virginia Department of Historic Resources determines the amount of eligible rehabilitation expenses and issues a certificate to the taxpayer. Generally, the rehabilitation work for a project must meet the Secretary of the Interior's Standards for Rehabilitation. If the project does not meet these standards, no part of the tax credit may be claimed. If the work is certified as meeting these standards, the tax credit is based on all eligible expenses.

Under Virginia's Enterprise Zone Program, the Department of Housing and Community Development administers the Real Property Investment Grant program for qualified real property investments made by any individual or entity to a commercial, industrial, or mixed use building or facility in a designated Virginia Enterprise Zone. A business or individual investing over $100,000 in a rehabilitation project may qualify for a grant of up to 20% of expenditures over the $100,000 threshold. For new construction projects, a business or individual must invest at least $500,000 before the 20% grant becomes effective. Grants are capped at $100,000 per building or facility for investments less than $5 million, and $200,000 for investments of $5 million or more.

Proposal

Under this bill, a company that establishes a new business within a Virginia locality in an existing commercial building that is at least 25 years old and has been vacant for at least 3 years or in an existing industrial building that is least 25 years old and has been vacant for at least 5 years would be eligible for either an individual or corporate income tax credit equal to 100% of the amount paid or incurred by such company for rehabilitating or retrofitting the commercial or industrial building. The total amount of the tax credit could not exceed an aggregate amount of $100,000, regardless of the taxable year or years in which the rehabilitation or retrofitting occurs. No tax credit would be allowed if any part of the rehabilitation or retrofitting of the building is designed for residential uses.

For the purposes of this tax credit, a new business would not be created as the result of a merger, acquisition, similar business combination, name change, or change in business form involving or with an entity with a place of business in the locality at the time of the merger, acquisition, similar business combination, name change, or change in business form. The amount of any tax credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company would be allocated to the individual partners, shareholders, or members in proportion to their ownership interest in such business entities.

The amount of tax credit allowed pursuant to this bill would not be permitted to exceed the income tax imposed on the company for the taxable year. Any unused tax credits would be allowed to be carried over for credit against the income taxes imposed on the company in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner. The tax credit would not be refundable.

This bill would prohibit a business from claiming this tax credit if the company is claiming or has claimed a Historic Rehabilitation Tax Credit or if it has been awarded an Enterprise Zone Real Property Investment Grant for the same rehabilitation or retrofitting expenses. No company would be eligible to claim this tax credit for rehabilitating or retrofitting the same building for which this tax credit has already been claimed. Unlike the Historic Rehabilitation Tax Credit and the Virginia Enterprise Zone Program, no state or local agency or organization would be required to approve the rehabilitation that is the basis for this tax credit.

This bill would require the Department to develop guidelines, exempt from the provisions of the Administrative Process Act, to implement this tax credit.

The bill would be effective for taxable years beginning on and after January 1, 2013, but before January 1, 2018.

Similar Bills

Senate Bill 747 is similar to this bill except that it would only allow a tax credit for rehabilitating or retrofitting an existing industrial building.

cc : Secretary of Finance

Date: 1/14/2013 MTH
HB2003F161