DEPARTMENT OF TAXATION
2020 Fiscal Impact Statement

1. **Patron** A. Benton Chafin, Jr.

2. **Bill Number** SB 5102
   House of Origin:
   X **Introduced**
   ___ **Substitute**
   ___ **Engrossed**

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

3. **Committee** Senate Finance and Appropriations

4. **Title** Income Tax Credit for Rent Forgone During the COVID-19 Pandemic

5. **Summary/Purpose:**

   This bill would provide an income tax credit in the amount of 65 percent of rent forgone during the coronavirus disease 2019 ("COVID-19 pandemic"). The maximum amount of the credit would be limited to $250,000 per taxpayer per year. The credit would only be available to landlords renting residential real estate and would not be available to a landlord renting commercial, industrial, or any similar type of real estate. The credit would be allowed only for rent that was not paid, either in part or in full, for which the landlord has no alternative legal method of recovery.

   This bill would be effective for taxable years beginning on and after January 1, 2020, but before January 1, 2025.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

   <u>Administrative Costs</u>

   As a result of this bill, the Department of Taxation ("the Department") would incur costs of approximately $256,645 in Fiscal Year 2021 and $70,050 in each fiscal year thereafter. This includes the cost of hiring one full-time employee to administer this new credit program and updating the Department's systems.

   Due to the current workload associated with system and processing changes that need to be made prior to the upcoming filing season, it is possible that the Department may not have the ability to implement the changes set forth in this bill by the proposed effective date. Most form development must be completed by August prior to filing season to allow sufficient time for systems testing, both internally and by tax software vendors. While it is possible to make certain smaller modifications later in the development process, programming for more extensive changes such as new tax credits is more difficult to accomplish in a short time frame. Accordingly, the Department will reevaluate its costs once action is taken and may request additional funding or an amendment to delay the effective date of this legislation.

In addition, any changes made later in the development process could impact commercial tax software that is made available by private vendors, potentially causing delays in the availability of such software and making it difficult for taxpayers who file electronically to do so in a timely and accurate manner.

Revenue Impact

This bill would result in an unknown negative General Fund revenue impact beginning in Fiscal Year 2021. The revenue impact of this bill is unknown due to uncertainty regarding the duration of the COVID-19 pandemic and its effect on residential real estate rental payments. In addition, it is unclear to what extent landlords will be unable to pursue forgone rental payments.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Deduction for Bad Debts

Under federal law, landlords generally may not claim a bad debt deduction for unpaid rent. However, landlords may claim a deduction for unpaid rent if they have already reported rental income but never received it. This situation may arise if a landlord uses accrual accounting for filing their federal taxes. Under accrual accounting, taxpayers report income when income is earned, even if they have not yet received payments due. If a landlord reports rental income but never actually receives payment when due, he or she may be able to claim a bad debt deduction for the payment. Virginia conforms to the federal treatment of bad debt deductions.

Proposed Legislation

This bill would provide an income tax credit in the amount of 65 percent of rent forgone during the COVID-19 pandemic. The credit would only be available to landlords renting residential real estate and would not be available to a landlord renting commercial, industrial, or any similar type of real estate. The credit would be allowed only for rent that was not paid, either in part or in full, and for which the landlord has no alternative legal method of recovery. If a landlord receives rent for which he claimed a credit, he would be required to remit to the Department the applicable portion of the credit that was granted within 90 days of receiving such rent. Any credit not remitted by such time would begin, as of such date, to accrue interest.

The maximum amount of the credit would be limited to $250,000 per taxpayer per year. In addition, the amount of the credit that may be claimed in any single taxable year would not be permitted to exceed the total amount of income tax for that taxable year. If the amount of the credit allowed exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability would be allowed to be carried over for the next three taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

The Department would be required to develop guidelines for claiming the credit provided by this section. Such guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on and after January 1, 2020, but before January 1, 2025.

cc : Secretary of Finance

Date: 8/20/2020 JJS
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