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HOUSE BILL NO. 2142

Offered January 13, 2021

Prefiled January 12, 2021

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to child care tax credit.*

Patrons—Miyares and Cole, M.L.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 58.1-339.13. Child care tax credit.

A. For purposes of this section, "eligible child care expenses" means additional amounts incurred and paid by the taxpayer for child care (i) excluding any child care expenses regularly incurred prior to the COVID-19 pandemic; (ii) where such additional amounts are verified pursuant to Department guidelines; and (iii) where such additional amounts were only incurred due to closures of the taxpayer's child's day care facility or primary or secondary school as a result of the COVID-19 pandemic between September 1, 2020, and July 1, 2021.

B. For the taxable years beginning on and after January 1, 2020, but before January 1, 2022, an individual or married persons filing a joint return shall be allowed a nonrefundable credit against the tax imposed pursuant to § 58.1-320 in an amount equal to the amount incurred and paid only during such taxable year for eligible child care expenses.

C. The amount of the credit allowed under this section shall not exceed the lesser of \$1,000 or the actual amount of eligible child care expenses incurred in the taxable year. If two parents of the same child file separately, only one of the two parents may claim the credit allowed under this section. The taxpayer may not claim both the credit and the deduction pursuant to subdivision 3 of § 58.1-322.03 for the amount of employment-related expenses upon which the federal child and dependent care credit is based under § 21 of the Internal Revenue Code for the same eligible child care expenses.

D. The amount of the credit that may be claimed in any single taxable year shall not exceed the total amount of tax imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the child care expenses were incurred, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. The Department shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) and shall describe the process by which a taxpayer may verify their eligible child care expenses for claiming the credit provided by this section.

INTRODUCED

HB2142