DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Ronald A. Villanueva

2. Bill Number HB 1950
House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee Senate Finance

4. Title Income Tax: Livable Home Tax Credit; Increase Credit Amount and Add Contractors

5. Summary/Purpose:

This bill would expand the Livable Home Tax Credit to allow a licensed contractor who builds new residences or retrofits existing residences to provide visitability or improve accessibility to be eligible for the tax credit.

This bill would increase the maximum credit amount from $2,000 to $5,000 for the purchase or construction of each new residential structure or unit, or for retrofitting an existing residence. Any unused tax credits would be allowed to be carried over for seven taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner.

This bill would also bifurcate the existing cap of $1 million for credits earned each year. One-half of the $1 million would be reserved for the purchase or construction of a new residence, and one-half would be reserved for retrofitting or renovating an existing residence. Any portion of the $500,000 reserved for the purchase or construction of a new residence that is not used would be allocated to the remaining balance of tax credits authorized for retrofitting or renovating existing residences. Any portion of the $500,000 reserved for retrofitting or renovating existing residences that is not used would be allocated to the remaining balance of tax credits authorized for the purchase or construction of a new residence. This bill would provide that if the total amount of tax credits applied for exceeded the amounts allocated by the Department of Housing and Community Development ("DHCD") for the fiscal year, the credits would be prorated and allocated to the taxpayers on a pro rata basis.

Under this bill, DHCD would not be allowed to issue any tax credits for transactions or dealings between affiliated entities or to the same or different persons for the same retrofitting, renovation, or construction project. In addition, this bill would not allow a tax credit for the purchase, construction, retrofitting, or renovation of a residential rental property.

This bill would be effective for taxable years beginning on or after January 1, 2011.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

8. Fiscal implications:

Department of Taxation Administrative Impact

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

Department of Housing and Community Development Administrative Impact

The Department of Housing and Community Development ("DHCD") reports that its administration of the Livable Home Tax Credit program should not be directly affected by this change.

Revenue Impact

The amount of Livable Home Tax Credits that may be granted is capped at $1 million annually; however, the amount of credits that are actually claimed each taxable year typically does not approach this limit. This bill would increase the amount of credits awarded and generate an unknown General Fund revenue loss, but not more than $ 1 million.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Housing and Community Development

10. Technical amendment necessary: No.

11. Other comments:

Current Law

The Livable Home Tax Credit is currently offered to taxpayers who purchase a new residence or retrofit or hire someone to retrofit an existing residence. The new residence or the retrofitting of an existing residence must be designed to improve accessibility, provide universal visitability, and meet the eligibility requirements established by guidelines developed by the Department of Housing and Community Development ("DHCD"). The amount of the credit is $2,000 for the purchase of a new residence, or 50% of the costs of retrofitting an existing residence, up to a maximum of $2,000. Credits may be carried forward for up to five taxable years.

From January 1, 2000, through December 31, 2009, the amount of the credit was equal to $500 for the purchase of a new residence, or 25% of the costs of retrofitting an existing residence, up to a maximum of $500.

In 2009, the General Assembly (2009 Acts of Assembly, Chapter 15, House Bill 1938, and Chapter 496, Senate Bill 845) increased the maximum amount of the credit for taxable years beginning on and after January 1, 2010, to $2,000 for the purchase of a new residence, and 50% of the costs of retrofitting an existing residence, up to a maximum of $2,000.

Under current law, DHCD is required to review and approve applications for the credit. The amount of credits granted for any taxable year may not exceed $1 million.

Proposal

This bill would expand the Livable Home Tax Credit to allow a licensed contractor who builds new residences or retrofits existing residences to provide visitability or improve accessibility to be eligible for the tax credit.

"Licensed contractor" would have the same meaning as "contractor" that is defined by the Department of Professional and Occupational Regulation, which in turn would mean any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property.

This bill would increase the maximum credit amount from $2,000 to $5,000 for the purchase or construction of each new residential structure or unit, or for retrofitting an existing residence. Any unused tax credits would be allowed to be carried over for seven taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner.

This bill would also bifurcate the existing cap of $1 million for credits earned each year. One-half of the $1 million would be reserved for the purchase or construction of a new residence, and one-half would be reserved for retrofitting or renovating an existing residence. Any portion of the $500,000 reserved for the purchase or construction of a new residence that is not used would be allocated to the remaining balance of tax credits authorized for retrofitting or renovating existing residences. Any portion of the $500,000 reserved for retrofitting or renovating existing residences that is not used would be allocated to the remaining balance of tax credits authorized for the purchase or construction of a new residence. This bill would provide that if the total amount of tax credits applied for exceeded the amounts allocated by DHCD for the fiscal year, the credits would be prorated and allocated to the taxpayers on a pro rata basis.

Under this bill, DHCD would not be allowed to issue any tax credits for transactions or dealings between affiliated entities or to the same or different persons for the same retrofitting, renovation, or construction project. In addition, this bill would not allow a tax credit for the purchase, construction, retrofitting, or renovation of a residential rental property.

Finally, any credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) would be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

This bill would be effective for taxable years beginning on or after January 1, 2011.

cc : Secretary of Finance

Date: 2/14/2011 TG
HB1950FE161