

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** R. Lee Ware, Jr.

3. **Committee** Passed House and Senate

4. **Title** Bank Franchise Tax

2. **Bill Number** HB 1224

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill would set a cap of \$18 million on the maximum total annual bank franchise tax liability per taxpayer. The cap would increase to \$20 million if at least five taxpayers pay the \$18 million cap for three consecutive years.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Impact

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

Revenue Impact

This bill would have no immediate impact on General Fund or local revenue. It would potentially limit future increases in Bank Franchise Tax revenues. The Bank Franchise Tax is imposed at the rate of \$1 on each \$100 of net capital. Local governments are authorized to impose a Bank Franchise Tax equal to 80 percent of the state tax. On the state returns banks can claim a credit for the local Bank Franchise Tax paid. Thus, the total Bank Franchise Tax revenue is split 80 percent to localities and 20 percent to the state.

There currently is no cap on how much a taxpayer can pay in Bank Franchise Tax. The bill would impose a permanent cap on the amount of tax paid by the five largest banks at \$20 million each. In the past three years, none of Virginia's banks have paid \$18 million in Bank Franchise Tax. However, in addition to capital growth attributable to growth in their business, banks are facing changes in certain capital reserve requirements. As a result, it is possible that a bank's capital, and bank franchise tax liability, may increase at

a greater rate than its business. It is not known how much of the growth in Virginia's Bank Franchise Tax revenue is attributable to these new capital requirements as opposed to normal business growth and recovery from the recession of 2007 and 2008.

9. Specific agency or political subdivisions affected:

Department of Taxation
Cities, Counties and Towns

10. Technical amendment necessary: No.

11. Other comments:

Current Law

An annual Bank Franchise tax is imposed on a bank's net capital at the rate of \$1 per \$100. Counties, cities and towns are authorized to impose a local Bank Franchise Tax on banks at an amount equal to 80 percent of the state tax. A credit against the state tax is allowed for these local taxes. Therefore, banks pay a total Bank Franchise Tax of \$1 per \$100 on their net capital, but it is effectively split 80 percent to localities and 20 percent to the state.

Recently Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and the U.S. Federal Reserve adopted most of the capital adequacy recommendations of the Basel Committee on Banking Supervision. As a result banks are expected to have to significantly increase their minimum capital ratios and a capital conservation buffer. These capital requirements are complex and are being phased in through 2019. These new capital requirements are expected to significantly increase the capital reserves of banks over what they were immediately prior to the 2007 and 2008 recession.

Proposed Legislation

This bill would set a cap of \$18 million on the total maximum annual bank franchise tax liability per taxpayer. The cap would increase to \$20 million if at least five taxpayers pay the \$18 million cap for three consecutive years. In the event that the cap increases the Department would be required to notify all bank and trust companies no later than August 15 of the year immediately prior to the year of such increase. The \$20 million cap would be permanent no matter how much capital Virginia banks have or how many banks would be limited by the cap.

The effective date of this bill is not specified.

Other Legislation

Senate Bill 670 is identical.

cc : Secretary of Finance

