DEPARTMENT OF TAXATION
2017 Fiscal Impact Statement

1. Patron Janet D. Howell

2. Bill Number SB 1034

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

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

3. Committee Senate Finance

4. Title Annual Per Taxpayer Limitation on the Amount of Historic Rehabilitation Tax Credits Claimed

5. Summary/Purpose:

This bill would prohibit a taxpayer from claiming more than $5 million in Historic Rehabilitation Tax Credits for a taxable year. Taxpayers with credit amounts in excess of $5 million would be able to carry forward the excess and claim the credit in future taxable years within the credit's current ten-year carryover period or until the full credit is used, whichever occurs first.

This bill would be effective for taxable years beginning on or after January 1, 2017.

6. Budget amendment necessary: No.

7. No Fiscal Impact. (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") and the Department of Historic Resources consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

This bill would have a positive General Fund revenue impact of $9.9 million in Fiscal Year 2018 and each fiscal year thereafter. No budget amendment is needed because the General Fund revenue impact is assumed in the Introduced Executive Budget. However, if this provision is not enacted, the budget would need to be adjusted to reduce the revenue estimate by $9.9 million in Fiscal Year 2018.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Historic Resources

10. Technical amendment necessary: No.

11. Other comments:

Federal Historic Preservation Tax Credit

Under federal law, an investment tax credit is allowed to taxpayers for the rehabilitation of historic income-producing properties. The federal credit is equal to 20 percent of the cost of rehabilitating or preserving commercial, agricultural, industrial, or rental residential buildings that are certified as historic. The Historic Preservation Tax Credit is intended to reward private investors for investing in rehabilitating historic properties, such as abandoned or under-used schools, warehouses, factories, churches, retail stores, apartments, hotels, houses, and offices.

Virginia Historic Rehabilitation Tax Credit

Under Virginia law, a taxpayer with eligible expenses in the rehabilitation of a certified historic structure is entitled to claim a tax credit. The credit is equal to 25 percent of rehabilitation expenses for projects completed in 2000 and thereafter. To qualify for the tax credit, the cost of the rehabilitation must equal to at least 50 percent (or 25 percent if the building is owner occupied) of the assessed value of the building for local real estate tax purposes prior to the rehabilitation. The rehabilitation work must be certified by the Department of Historic Resources ("DHR") and be consistent with the Secretary of the Interior's standards for rehabilitation. The allowable tax credit may not exceed a taxpayer's tax liability. Any unused credits may be carried forward for up to ten years. Currently, there is no per project limitation or state-wide annual cap on the amount of tax credits that may be issued or claimed.

As originally enacted in 1996 by House Bill 1453 (1996 *Acts of Assembly*, Chapter 289), the credit could only be claimed against individual, fiduciary, and corporate income taxes. Pursuant to House Bill 454 (1998 *Acts of Assembly*, Chapter 371), the credit was expanded in 1998 to apply against the bank franchise tax, the insurance premium license tax, and the tax on public service corporations. Since Fiscal Year 2008, the amounts of Historic Rehabilitation Tax Credits claimed against each tax are as follows:

Fiscal Year	Income Tax	Bank Franchise Tax	Insurance Premiums License Tax	Total
2008	$39.81 million	$0.13 million	$41.42 million	**$81.36 million**
2009	$62.77 million	$0.15 million	$45.25 million	**$108.17 million**
2010	$64.62 million	$1.18 million	$48.93 million	**$114.72 million**
2011	$46.80 million	$1.53 million	$34.84 million	**$83.17 million**
2012	$59.22 million	$4.96 million	$30.33 million	**$94.50 million**
2013	$23.53 million	$1.66 million	$42.38 million	**$67.57 million**
2014	$27.10 million	$0.48 million	$43.27 million	**$70.86 million**
2015	$43.80 million	$2.77 million	$51.42 million	**$98.00 million**
2016 (preliminary)	$47.98 million	$4.66 million	$45.43 million	**$98.07 million**

Historic Rehabilitation Tax Credits in Other States

Thirty-two states have programs similar to the Virginia Historic Rehabilitation Tax Credit. Below is a list of these states, along with an indication of whether there is any type of per project limitations or a state-wide cap. As shown below, nineteen states have some type of limitation on the amount of tax credits that can be awarded to a particular project. Sixteen states have a state-wide cap on the total amount of credits that may be awarded annually:

State	Limitation	Statewide Cap
Arkansas	$125,000 commercial; $25,000 non-commercial	$4 million
Colorado	$1 million commercial under the "new credit"; $50,000 owner-occupied and commercial under the "old credit"	$5 million under the "new credit" in FY 2017; none under the "old credit"
Connecticut	$4.5 million for commercial; $30,000 for owner-occupied	$31.7 million for commercial; $3 million for owner occupied
Delaware	$20,000 owner occupied	$5 million
Georgia	$100,000 for residences; $5 million for income-producing properties (increases to $10 million for projects meeting job or payroll levels)	None generally; $25 million for projects requesting over 300,000 in tax credits
Illinois	None	None
Iowa	None	$45 mil
Kansas	None	None
Kentucky	$60,000 owner-occupied; $400,000 for non-owner-occupied	$5 mil
Louisiana	$18,500 per owner-occupied property; $5 million per district for income-producing property	$7.2 million owner-occupied; none for income-producing property
Maine	$5 million	None
Maryland	$3 million commercial; $50,000 for owner-occupied	$9 million commercial in FY 2016 appropriation; none for owner-occupied
Massachusetts	None	$50 million
Minnesota	None	None
Mississippi	None	$12 million per year ($60 million for a five year period)

State	Limitation	Statewide Cap
Missouri	$250,000 owner-occupied	$140 million (does not apply to projects with total expenditures less than $1.1 million)
Montana	None	None
Nebraska	$1 million	$15 million
New Mexico	$25,000; $50,000 in Cultural District	None
New York	$5 million commercial $50,000 owner-occupied	None
North Carolina	Non-income-producing $22,500; income-producing $4.5 million	None
North Dakota	$250,000	None
Ohio	$5 million	$60 million
Oklahoma	None	None
Pennsylvania	$500,000	$3 million
Rhode Island	$5 million	$34.5 million in current annual appropriation
South Carolina	None	None
Texas	None	None
Utah	None	None
Vermont	$25,000	$1.5 million
Virginia	None	None
West Virginia	None	None
Wisconsin	$10,000 residential	None

Proposed Legislation

This bill would prohibit a taxpayer from claiming more than $5 million in Historic Rehabilitation Tax Credits for a taxable year. Taxpayers with credit amounts in excess of $5 million would be able to carry forward the excess and claim the credit in future taxable years within the credit's current ten-year carryover period or until the full credit is used, whichever occurs first. This bill would not impose a per project limitation or a state-wide annual cap on the amount of tax credits that may be issued or claimed.

This bill would be effective for taxable years beginning on or after January 1, 2017.

Similar Bills

House Bill 1635 is identical to this bill.

cc : Secretary of Finance

Date: 1/14/2017 JJS
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