DEPARTMENT OF TAXATION
2019 Fiscal Impact Statement

1. Patron Nick Rush

2. Bill Number HB 2191
House of Origin:
__X__ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Bank Franchise Tax Credit; Student Loan Refinancing

5. Summary/Purpose:

This bill would allow a bank to claim a credit against its state bank franchise tax liability in an amount equal to 20 percent of its refinancing expenses with respect to private student loans. However, no credit would be allowed against the bank franchise taxes imposed by cities, towns, and counties. This credit would not be subject to an annual credit cap.

This bill would be effective for taxable years beginning on and after January 1, 2019.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Costs

Due to uncertainty about the systems and processing changes that may be required for the 2018 and 2019 income tax filing seasons, the Department is unable to assign administrative costs to this bill at this time. During 2017, Congress enacted the Tax Cuts and Jobs Act, which made substantial changes to federal tax law. At this time, it is uncertain what Virginia tax policy changes will be adopted in reaction to the federal law.

If substantial changes are enacted or required in response to state/federal law, 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. 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.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2020. The extent to which banks would qualify for and claim this credit is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia's Bank Franchise Tax

Virginia imposes an annual Bank Franchise tax 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.

Discharge of Indebtedness Income

The discharge of indebtedness, including discharged student loans, is includible in a taxpayer's gross income unless an exclusion applies. An exclusion is provided when student loans are discharged on behalf of an insolvent taxpayer. A taxpayer is considered insolvent to the extent his or her liabilities, including student loans, exceed the fair market value of his or her assets immediately before the discharge. This exclusion is limited to the amount by which a taxpayer is insolvent. Another exclusion from gross income is provided for the discharge of all or part of certain government student loans, and loans made by certain public benefit corporations and tax-exempt educational organizations, if the discharge is contingent on the taxpayer working for a defined period of time in certain public service professions.

For individual income tax purposes, Virginia generally conforms to federal income tax law and begins the calculation of a taxpayer's Virginia taxable income with his or her federal adjusted gross income. However, Virginia provides a subtraction for any income attributable to the discharge of a student loan solely by reason of the student's death.

Proposed Legislation

This bill would allow a bank to claim a nonrefundable credit against its state bank franchise tax liability in an amount equal to 20 percent of its refinancing expenses. However, no credit would be allowed against the bank franchise taxes imposed by cities, towns, and counties. This credit would not be subject to an annual credit cap.

"Refinancing expenses" would be defined as forgiven principal plus interest reduction.

"Forgiven principal" would be defined as, for all student loans refinanced by a bank, in the aggregate, including multiple loans consolidated into a single loan, the amount of principal outstanding before refinancing minus the amount of principal outstanding after refinancing.

"Interest reduction" would be defined as, for all student loans refinanced by a bank, in the aggregate, including multiple loans consolidated into a single loan, the amount of interest outstanding before refinancing minus the amount of interest outstanding after refinancing. For purposes of calculating interest reduction for a fixed rate loan, the total amount of interest over the loan term would be averaged annually using the rate that applies to the loan. For purposes of calculating interest reduction for a variable rate loan, the total amount of interest over the loan term would be required to be averaged annually using the highest rate that could apply to the loan under the terms of the loan contract.

"Student loan" would be defined as a privately held student loan. "Student loan" does not include a loan held by the federal government.

This bill would be effective for taxable years beginning on and after January 1, 2019.

cc : Secretary of Finance

Date: 1/22/2019 JJS
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