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SENATE BILL NO. 343

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 58.1-339.8 and 63.2-527 of the Code of Virginia, relating to refundable income tax credit for low-income taxpayers.

Patrons—Barker, Ebbin and McClellan

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-339.8 and 63.2-527 of the Code of Virginia are amended and reenacted as follows: § 58.1-339.8. Income tax credit for low-income taxpayers.

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Household" means an individual or, in the case of married individuals, an individual and his spouse, regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married individuals' income tax return for the taxable year. For any taxable year in which married individuals file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married individuals.

2. For taxable years beginning on and after January 1, 2006, any individual or married individuals, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married individuals for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for the same taxable year.

For the purpose of this subdivision, "household" means an individual and, in the case of married individuals, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

C. 1. The amount of the credit provided claimed pursuant to subsection B 1 for any taxable year shall not exceed the individual's or married individuals' Virginia income tax liability.

2. For taxable years beginning before January 1, 2022, or on and after January 1, 2029, the amount of credit provided pursuant to subdivision B 2 shall not exceed the individual's or married individuals' Virginia income tax liability.

3. For taxable years beginning on and after January 1, 2022, but before January 1, 2029, a portion of the credit provided pursuant to subdivision B 2 in excess of a resident individual's or married individuals' Virginia income tax liability shall be refundable. The refundable portion of the credit provided pursuant to subdivision B 2 shall be claimed on the Virginia income tax return and redeemed by the Tax Commissioner.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married individuals' income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:

1. The subtraction under subdivision 8 of § 58.1-322.02;

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- 59 2. The subtraction under subdivision 15 of § 58.1-322.02;
60 3. The subtraction under subdivision 16 of § 58.1-322.02;
61 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision
62 2 b of § 58.1-322.03; or
63 5. The deduction under subdivision 5 of § 58.1-322.03.

64 **§ 63.2-527. Notice of federal earned income tax credit; state income tax for low-income**
65 **taxpayers.**

66 The Department shall provide notice regarding the availability of the federal earned income tax credit
67 authorized in § 32 of the Internal Revenue Code and the state ~~earned~~ income tax credit *for low-income*
68 *taxpayers* authorized in ~~subdivision B 2 of~~ § 58.1-339.8 to all recipients of Temporary Assistance for
69 Needy Families pursuant to Chapter 6 (§ 63.2-600 et seq.), SNAP benefits pursuant to § 63.2-801, or
70 medical assistance pursuant to § 32.1-325 who had earned income in the prior tax year based on
71 information available through the Virginia Employment Commission and, according to information made
72 available by the Virginia Department of Taxation, either did not file federal or state income taxes or
73 filed taxes and did not claim the federal or state earned income tax credit. Notice shall be distributed to
74 recipients annually and shall include information on the qualifying income levels, the amount of credit
75 available, the process for applying for the credit, and the availability of assistance in applying for the
76 credit.