

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Mamie E. Locke

2. **Bill Number** SB 47

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Enhancement of the Virginia Housing
Opportunity Tax Credit

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would make various changes to the Virginia Housing Opportunity Tax Credit.

First, this bill would modify the tax credit's annual cap. Under current law, this credit is subject to an annual cap equal to \$15 million per calendar year. Effective for Calendar Year 2022 through Calendar Year 2025, this bill would increase the annual cap on the amount of Virginia Housing Opportunity Tax Credit that may be issued to equal \$60 million per calendar year. However, unlike current law, credits issued each calendar year from Calendar Year 2022 through Calendar Year 2025 would not be claimed immediately. Instead, this bill would provide that credits issued each calendar year will be allowed ratably, with one-tenth of the total amount of credits allowed annually for 10 years over the credit period.

In addition to the \$60 million annual cap, this bill would impose a new, multi-year cap on the Housing Opportunity Tax Credits program equal to \$255 million. Such cap would not apply per calendar year but instead across all calendar years for which the Housing Opportunity Tax Credit is effective. As a result, such multi-year cap applies for Calendar Year 2021 through Calendar Year 2025.

This bill would also repeal language authorizing the Virginia Housing Development Authority ("Virginia Housing") to create a certificated program. Instead, this bill would provide that Virginia Housing must provide information, data, and any other requested advisement on the potential structure and cost of a separately authorized certificated program upon a request from the Chairs of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance and Appropriations.

This bill would provide that \$20 million of the \$60 million annual cap must be first allocated exclusively for qualified projects located in a locality with a population no greater than 35,000 as determined by the most recent United States census.

6. **Budget amendment necessary:** No.

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

8. Fiscal implications:

Administrative Costs

The Department of Taxation (“the Department”) considers implementation of this bill as routine and does not require additional funding. Virginia Housing has not stated that it will incur any costs that would have a state budgetary impact. Virginia Housing is permitted by law to charge fees to developers to cover any costs. In addition, Virginia Housing is self-supporting and does not receive state appropriations.

Revenue Impact

This bill would result in an unknown General Fund revenue impact. The timing of the impact is depends on how quickly Virginia Housing awards credits and how quickly taxpayers claim the credits authorized by this bill. After taking into account the \$15 million revenue reduction currently assumed for the existing credit program, this bill could result in:

- An estimated positive General Fund revenue impact of \$9.0 million in Fiscal Year 2024 and \$3.0 million in Fiscal Year 2025, and
- An estimated negative General Fund revenue impact of \$3.0 million in Fiscal Year 2026, \$9.0 million in Fiscal Year 2027, \$9.0 million in Fiscal Year 2028, and \$9.0 million in Fiscal Year 2029.

This assumes there will be a one-year delay in when taxpayers claim the credits. This is reasonable given the length of time that Virginia Housing has indicated it can take to complete a project. However, the actual impact could be earlier or later. In addition, because the credit program would now be subject to a first-year reduction due to the federal law computation, the actual revenue impact could vary. No budget amendment is needed as revenue adjustments have been assumed in the 2022 Appropriation Act (Special Session I, Chapter 2).

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Housing Development Authority

10. Technical amendment necessary: No

11. Other comments:

Proposed Legislation

This bill would make various changes to the Virginia Housing Opportunity Tax Credit.

First, this bill would modify the tax credit’s annual cap. Under current law, this credit is subject to an annual cap equal to \$15 million per calendar year. Effective for Calendar

Year 2022 through Calendar Year 2025, this bill would increase the annual cap on the amount of Virginia Housing Opportunity Tax Credit that may be issued to equal \$60 million per calendar year. However, unlike current law, credits issued each calendar year from Calendar Year 2022 through Calendar Year 2025 would not be permitted to be claimed immediately. Instead, this bill would provide that credits issued each calendar year will be allowed ratably, with one-tenth of the total amount of credits allowed annually for 10 years over the credit period. This bill also would provide that there will be a reduction in the tax credit allowable in the first year of the credit period due to a federal law calculation, and any reduction by reason of such federal law calculation in the credit allowable for the first taxable year of the credit period will be allowable for the first taxable year following the credit period.

If the amount of Housing Opportunity Tax Credits issued by Virginia Housing in a calendar year is less than the \$60 million annual cap, the balance of such credits, in an amount not greater than \$9 million:

- May be allocated by Virginia Housing for any qualified project in the following calendar year,
- May not be allocated at any time after such following calendar year, and
- May be allocated no later than December 31, 2025.

This bill would provide that any Housing Opportunity Tax Credits amounts issued by Virginia Housing that are later either canceled and returned to Virginia Housing, or recaptured or disallowed may be awarded in the following calendar year, but no later than December 31, 2025.

In addition to the \$60 million annual cap, this bill would impose a new, multi-year cap on the Housing Opportunity Tax Credits program equal to \$255 million. Such cap would not apply per calendar year but instead across all calendar years for which the Housing Opportunity Tax Credit is effective. As a result, such multi-year cap would apply for Calendar Year 2021 through Calendar Year 2025.

This bill would also repeal language authorizing Virginia Housing to create a certificated program. Instead, this bill would provide that Virginia Housing must provide information, data, and any other requested advisement on the potential structure and cost of a separately authorized certificated program upon a request from the Chairs of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance and Appropriations.

This bill would provide that \$20 million of the \$60 million annual cap must be first allocated exclusively for qualified projects located in a locality with a population no greater than 35,000 as determined by the most recent United States census. Such allocation of Virginia Housing Opportunity Tax Credits would constitute the minimum amount of such tax credits to be allocated for qualified projects in such localities. However, if the amount of such tax credits requested for qualified projects in such localities is less than the total amount of such credits available for qualified projects in such localities, the balance of such credits would be permitted to be allocated for any qualified project, regardless of

location. In allocating or allowing such credits to qualified projects in such localities, Virginia Housing would be required to give equal consideration to qualified projects allocated or allowed a federal low-income housing credit in an amount equal to the 10-year present value calculation of the percentages prescribed under federal law.

cc : Secretary of Finance

Date: 07/22/2022 JJS
SB47FER161