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SENATE BILL NO. 908

Offered January 11, 2023

Prefiled January 5, 2023

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.14, relating to tax credit; loss of a stillborn child.*

Patron—Locke

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.14 as follows:

§ 58.1-339.14. Tax credit for loss of a stillborn child.

A. For purposes of this section, "stillborn child" means a child of the taxpayer (i) who suffered a spontaneous death, (ii) who reached no less than 20 complete weeks of gestation calculated from the date the mother's last normal menstrual period began to the date of delivery or weighed 350 grams or more, (iii) for whom a Certificate of Birth Resulting in Stillbirth has been requested and issued pursuant to § 32.1-258.1 or for whom other documentation verifying a loss of delivering a stillborn child on forms prescribed by the Department can be produced, and (iv) whose death was not the result of an induced termination of the pregnancy.

B. For taxable years beginning on and after January 1, 2023, but before January 1, 2028, an individual filing or married persons filing a joint return in Virginia shall be allowed a refundable credit against the tax levied pursuant to § 58.1-320 equal to \$2,000 for the loss of delivering a stillborn child. The credit may be claimed only in the taxable year in which the loss of delivering a stillborn child occurred and if the child would have become a dependent of the taxpayer as defined in 26 U.S.C. § 152 of the Internal Revenue Code. For any taxable year in which married persons file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax liability for only one of such two tax returns. The credit provided by this section may be claimed by only one individual per stillborn child.

C. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess shall be refunded by the Tax Commissioner to such taxpayer. The refundable portion of the credit provided pursuant to subsection B shall be claimed on the Virginia income tax return and redeemed by the Tax Commissioner from an appropriation from the general fund.

D. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

INTRODUCED

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