DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement

1. **Patron** Angelia Williams Graves

2. **Bill Number** SB 512
   House of Origin:
   X **Introduced**
   _____ **Substitute**
   _____ **Engrossed**

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

3. **Committee** Senate Finance and Appropriations

4. **Title** Adaptive Repurposing of Underutilized Structures Tax Credit

5. **Summary/Purpose:**

   This bill would establish a nonrefundable income tax credit for the expenses incurred in converting office buildings to residential use. The proposed credit would be claimed only in the year the converted building is placed into service. The credit would be equal to twenty percent of the amount of eligible expenses incurred, or thirty percent of eligible expenses if located in an at-risk locality. No taxpayer would be able to claim more than $2.5 million in credits in a single taxable year and the credit would be subject to an aggregate annual cap of $30 million.

   A qualifying residential conversion would be required to have:

   - At least twenty percent of the residential units be rent-restricted and occupied by individuals with per capita income below eighty percent of the median per capita income for the locality in which the building is located, or

   - The owner enter into a binding, written agreement with the Commonwealth or the locality regarding the provision of affordable housing.

   This bill would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029.

6. **Budget amendment necessary:** Yes.
   Item(s): 257 and 258, Department of Taxation

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

7a. **Expenditure Impact:**

Fiscal Year	***Dollars***	***Positions***
2025	$861,020	2
2026	$320,300	2
2027	$300,000	2
2028	$300,000	2
2029	$300,000	2

8. Fiscal implications:

Administrative Costs

The Department of Taxation estimates that the provisions of this bill would result in administrative costs of $561,020 in FY 2025 and $20,300 in FY 2026. These costs include technology and processing costs associated with establishing this new tax credit.

The Department of Housing and Community Development ("DHCD") estimates that the provisions of this bill would result in costs for them of $300,000 each year beginning in FY 2025. According to DHCD, the development and management of the guidelines for the income tax credit for office conversion would require resources beyond what it currently possesses and would require two full-time employees, one program administrator and one program specialist. These positions would develop the guidelines and perform the day-to-day activities of administering the tax credit, including creating, reviewing, and administering program guidelines for eligible tax credit recipients, educating localities and developers to the program guidelines, certifying eligible credit recipients, providing technical assistance for both state and similar federal programs, coordinating activities with appropriate stakeholders and monitoring the credit's impact.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2025 and each fiscal year thereafter. Due to data limitations and uncertainty around the impact of this credit on future investing decisions, the negative General Fund revenue impact is unknown, but would be limited to the aggregate cap of $30 million annually.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Housing and Community Development

10. Technical amendment necessary: No.

11. Other comments:

Proposed Legislation

This bill would establish a nonrefundable income tax credit for eligible developers in an amount equal to twenty percent (thirty percent in an at-risk locality) of the eligible expenses incurred in connection with the qualifying residential conversion of a substantially converted building into a qualified converted building. This credit would be permitted to be claimed only in the year the qualified converted building is placed into service for residential purposes, and could be taken against the individual, corporate, or fiduciary income taxes.

The total amount of credits that may be claimed by a single taxpayer would be $2.5 million per taxable year, and the total amount of credits that may be claimed in aggregate by all taxpayers would be capped at $30 million per taxable year. The amount of the credit claimed in any single taxable year could not exceed the taxpayer’s income tax liability for that taxable year. Taxpayers would be able to carry forward any unused credit for up to five years.

“At risk locality” would be defined as a locality of the Commonwealth (i) with an annual unemployment rate that is greater than the statewide average unemployment rate and (ii) with a poverty rate that exceeds the statewide average poverty rate.

“Eligible developer” would be defined as a person, including a real estate investment trust, having an ownership interest in a qualified converted building who contracts for or undertakes the qualifying residential conversion and incurs eligible expenses.

“Eligible expenses” would be defined as expenses incurred in connection with the qualifying residential conversion of a building to a qualified converted building. "Eligible expenses" does not include (i) any costs associated with the acquisition of any building and its interest, (ii) any expenses incurred that are attributable to the enlargement of an existing building, or (iii) any expenses incurred in connection with the conversion of a building that is allocable to the portion of the property that is a tax-exempt use property under Virginia law.

"Qualified converted building" would be defined as any building and its structural components if (i) prior to conversion, the building was not a residential property and only made available to commercial office tenants; (ii) such building was substantially converted from office use to residential use in a qualifying residential conversion; (iii) the building was first placed into service at least 25 years prior to the start of a qualifying residential conversion; and (iv) depreciation is allowed for such building.

"Qualifying residential conversion" would be defined as the conversion of a building and its structural components from office use to residential use in a qualified converted building so that, at completion, (i) at least 20 percent of the residential units at such converted building are both rent-restricted and occupied by individuals with per capita income below 80 percent of the median per capita income for the locality in which the converted building is located or (ii) the converted building owner is subject to a binding, written agreement with the Commonwealth or the locality regarding the provision of affordable housing and the agreement is documented in the form and manner required by the Department of Housing and Community Development.

"Substantially converted" would be defined as the conversion of a building from office use to residential use in a qualifying residential conversion if the eligible expenses incurred within the taxable year the qualified converted building is placed into service exceed the greater of (i) the adjusted basis of the building and its structural components or (ii) $15,000. The adjusted basis of the building would be determined as of the first day of the taxable year in which a credit is claimed.

The Tax Commissioner would be required to develop guidelines for claiming the credit, and the Department of Housing and Community Development would develop guidelines for determining which expenditures would qualify as eligible expenses. These guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029.

Similar Legislation

HB 1203 would modify the Communities of Opportunity Tax Credit for landlords to increase the cap from $250,000 to $1 million.

HB 1096 would increase the cap on the Housing Opportunity Tax Credit from $60 million to $100 million per calendar year and change the multi-year cap from $255 million to $375 million.

cc : Secretary of Finance

Date: 1/27/2024 ALS
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