



# House of Representatives

General Assembly

**File No. 683**

January Session, 2023

Substitute House Bill No. 6922

*House of Representatives, May 2, 2023*

The Committee on Finance, Revenue and Bonding reported through REP. HORN of the 64th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE BUSINESS OPERATING LOSS CARRY-OVER PERIOD.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (4) of subsection (a) of section 12-217 of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (4) Notwithstanding any provision of this section; [to the contrary,]

5 (A) [any] Any excess of the deductions provided in this section for  
6 any income year commencing on or after January 1, 1973, over the gross  
7 income for such year or the amount of such excess apportioned to this  
8 state under the provisions of this chapter, shall be an operating loss of  
9 such income year and shall be deductible as an operating loss carry-over  
10 for operating losses incurred prior to income years commencing January  
11 1, 2000, in each of the five income years following such loss year; [, and]  
12 for operating losses incurred in income years commencing on or after

13 January 1, 2000, and prior to January 1, 2015, in each of the twenty  
14 income years following such loss year; [ ] and for operating losses  
15 incurred in income years commencing on or after January 1, 2015, in  
16 each of the thirty income years following such loss year; except that:

17 (i) [for] For income years commencing prior to January 1, 2015, the  
18 portion of such operating loss [which] that may be deducted as an  
19 operating loss carry-over in any income year following such loss year  
20 shall be limited to the lesser of (I) any net income greater than zero of  
21 such income year following such loss year, or in the case of a company  
22 entitled to apportion its net income under the provisions of this chapter,  
23 the amount of such net income [which] that is apportioned to this state  
24 pursuant thereto, or (II) the excess, if any, of such operating loss over  
25 the total of such net income for each of any prior income years following  
26 such loss year, such net income of each of such prior income years  
27 following such loss year for such purposes being computed without  
28 regard to any operating loss carry-over from such loss year allowed  
29 under this subparagraph and being regarded as not less than zero, and  
30 provided further the operating loss of any income year shall be  
31 deducted in any subsequent year, to the extent available for such  
32 deduction, before the operating loss of any subsequent income year is  
33 deducted; [ ]

34 (ii) [for] For income years commencing on or after January 1, 2015,  
35 the portion of such operating loss [which] that may be deducted as an  
36 operating loss carry-over in any income year following such loss year  
37 shall be limited to the lesser of (I) fifty per cent of net income of such  
38 income year following such loss year, or in the case of a company  
39 entitled to apportion its net income under the provisions of this chapter,  
40 fifty per cent of such net income [which] that is apportioned to this state  
41 pursuant thereto, or (II) the excess, if any, of such operating loss over  
42 the operating loss deductions allowable with respect to such operating  
43 loss under this subparagraph for each of any prior income years  
44 following such loss year, such net income of each of such prior income  
45 years following such loss year for such purposes being computed  
46 without regard to any operating loss carry-over from such loss year

47 allowed under this subparagraph and being regarded as not less than  
48 zero, and provided further the operating loss of any income year shall  
49 be deducted in any subsequent year, to the extent available for such  
50 deduction, before the operating loss of any subsequent income year is  
51 deducted; [,] and

52 (iii) [if] If a combined group so elects, the combined group shall  
53 relinquish fifty per cent of its unused operating losses incurred prior to  
54 the income year commencing on or after January 1, 2015, and before  
55 January 1, 2016, and may utilize the remaining operating loss carry-over  
56 without regard to the limitations prescribed in subparagraph (A)(ii) of  
57 this subdivision. The portion of such operating loss carry-over that may  
58 be deducted shall be limited to the amount required to reduce a  
59 combined group's tax under this chapter, prior to surtax and prior to the  
60 application of credits, to two million five hundred thousand dollars in  
61 any income year commencing on or after January 1, 2015. Only after the  
62 combined group's remaining operating loss carry-over for operating  
63 losses incurred prior to income years commencing January 1, 2015, has  
64 been fully utilized, will the limitations prescribed in subparagraph  
65 (A)(ii) of this subdivision apply. The combined group, or any member  
66 thereof, shall make such election on its return for the income year  
67 beginning on or after January 1, 2015, and before January 1, 2016, by the  
68 due date for such return, including any extensions. Only combined  
69 groups with unused operating losses in excess of six billion dollars from  
70 income years beginning prior to January 1, 2013, may make the election  
71 prescribed in this clause; [,] and

72 (B) [any] Any net capital loss, as defined in the Internal Revenue Code  
73 effective and in force on the last day of the income year, for any income  
74 year commencing on or after January 1, 1973, shall be allowed as a  
75 capital loss carry-over to reduce, but not below zero, any net capital  
76 gain, as so defined, in each of the five following income years, in order  
77 of sequence, to the extent not exhausted by the net capital gain of any of  
78 the preceding of such five following income years; [,] and

79 (C) [any] Any net capital losses allowed and carried forward from

80 prior years to income years beginning on or after January 1, 1973, for  
81 federal income tax purposes by companies entitled to a deduction for  
82 dividends paid under the Internal Revenue Code other than companies  
83 subject to the gross earnings taxes imposed under chapters 211 and 212,  
84 shall be allowed as a capital loss carry-over.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-217(a)(4)

**FIN**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Revenue Serv., Dept.	GF - Revenue Loss	Up to 7.5 million	Up to 4.7 million
Revenue Serv., Dept.	GF - Cost	Up to 50,000	Up to 50,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill, which extends the net operating loss (NOL) carryforward period for NOLs incurred beginning with the 2015 income year, results in (1) a General Fund revenue loss of up to \$7.5 million in FY 24 (includes retroactive impact) and up to \$4.7 million annually thereafter, and (2) an ongoing General Fund cost to the Department of Revenue Services (DRS) of up to \$50,000 annually beginning in FY 24 associated with retaining and storing business tax forms for an additional 10 years.

The revenue estimate is based on data from DRS indicating that a total of 5,960 corporate business tax filers applied \$1,243,980,652 in NOLs in the 2020 income year.

**The Out Years**

The annualized ongoing revenue impact identified above would continue into the future. The annualized ongoing cost impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 6922*****AN ACT CONCERNING THE BUSINESS OPERATING LOSS CARRY-OVER PERIOD.*****SUMMARY**

This bill extends, from 20 years to 30 years, the period that corporations may carry forward a net operating loss (NOL) deduction for corporation business tax purposes. (NOL is the amount by which a corporation's total allowable deductions exceed its gross income.) The bill's extended carry forward period applies to NOLs incurred beginning with the 2015 income year.

Existing law, unchanged by the bill, generally limits a corporation's NOL deduction to the lesser of (1) 50% of its pre-NOL net income and (2) the difference between the amount of NOL in the current income year and the amount carried forward from prior years.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Related Bill***

sSB 981, favorably reported by the Finance, Revenue and Bonding Committee, contains an identical provision.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 48 Nay 3 (04/18/2023)