

DEPARTMENT OF TAXATION

2002 Fiscal Impact Statement

1. **Patron:** Suit

3. **Committee:** Passed House and Senate

4. **Title:** Residential Cooperative Associations;
State and Local Taxation

2. **Bill Number:** HB 647

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide that residential cooperative associations are not businesses for any state and local purposes to the extent that they collect payments from residents of the cooperative. Under current law, if a residential cooperative association is a business subject to the local Business Professional and Occupational License (BPOL) Tax, payments received from residents are included in its taxable gross receipts for BPOL tax purposes.

This bill would also provide that the tangible personal property owned by residential cooperative associations may qualify for the local tangible personal property tax exemption for household goods and personal effects. Under current law, property owned by residential cooperative associations cannot qualify for the household goods exemption because it is not owned and used by an individual or by a family or household incident to maintaining an abode.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not Available (See line 8).

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

This bill would have no impact on state revenue.

This bill would result in a decrease in local BPOL tax revenues in localities that impose a BPOL tax on residential cooperative associations to the extent that payments from residents are currently included in the associations' taxable gross receipts.

This bill would result in a decrease in local tangible personal property tax revenues to the extent that property of residential cooperative associations that is currently subject to the

tangible personal property tax qualifies for the household goods and personal effects exemption.

Although this bill is expressly applicable to all state and local taxes, it would not change the law for taxes other than the BPOL tax and the local tangible personal property tax because either (1) the fact that a taxpayer is a “business” is not relevant to the imposition of the taxes, or (2) the taxes do not apply to payments by residents to cooperatives.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: None.

11. Other comments:

Local Tangible Personal Property Tax

In general, all tangible personal property is subject to local taxation unless specifically exempted from taxation. Localities are not currently authorized to provide an exemption for the tangible personal property of residential cooperative associations.

Localities are authorized to provide an exemption from the tangible personal property tax for household goods and personal effects owned and used by an individual or by a family or household incident to maintaining an abode. Under current law, tangible personal property owned by a residential cooperative association cannot qualify for this exemption because it is not owned and used by an individual or by a family or household incident to maintaining an abode.

This bill would provide that any tangible personal property owned by a residential cooperative association that would be considered household goods and personal effects if owned and used by an individual or by a family or household incident to maintaining an abode shall be considered household goods and personal effects owned and used by an individual or by a family or household incident to maintaining an abode for purposes of the local exemption for household goods and personal effects.

BPOL Tax

The BPOL tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business.

Under current law, as they are not considered businesses, residential cooperative associations are typically not subject to the BPOL tax.

In a recent ruling, TAX upheld a local assessment of BPOL taxes made to a condominium association that conducted several business activities. The condominium association did not qualify for the BPOL exemption afforded to certain nonprofit organizations. The condominium association in question acted as a compensated rental agent for its unit owners and also acquired units and rented them to the public. The Commissioner of the Revenue determined that based on these activities, the condominium association was a business, and like other businesses, must include all monies that it receives (that are not otherwise exempted by law), including assessments and fees charged by the association to the unit owners for common expenses, in its taxable gross receipts.

HB 303 would provide an exemption from the local BPOL tax to condominium associations for assessments paid by condominium unit owners for common expenses.

c: Secretary of Finance

Date: 2/15/02/JEM

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