

DEPARTMENT OF TAXATION

2003 Fiscal Impact Statement

1. **Patron** Suit

3. **Committee** Passed House and Senate

4. **Title** Virginia Real Estate Cooperative Act;
Taxation of Cooperatives

2. **Bill Number** HB 1746

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill provides that certain amendments to *Code of Virginia* § 55-428 enacted during the 2002 General Assembly Session are declarative of existing law. The first amendment provided that residential cooperative associations are not businesses for any state and local tax purposes to the extent that they collect payments from residents of the cooperative. The second amendment provided 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.

The effective date of this bill is not stated.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill has no impact on state revenues. As this bill effectively makes certain local tax exemptions retroactive, it would result in localities having to pay refunds of these taxes to residential cooperative associations.

9. Specific agency or political subdivisions affected:

All counties, cities and towns

10. Technical amendment necessary: No.

11. Other comments:

Chapter 34 of the 2002 Acts of Assembly provided 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. However, under the analysis set forth in an earlier ruling of the Tax Commissioner, based on its activities, a residential

cooperative association could be a business subject to the local Business, Professional and Occupational License ("BPOL") Tax.

Additionally, Chapter 34 provided 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 the statutory law in effect at that time, property owned by residential cooperative associations could not 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.

In an official opinion dated August 14, 2002, the Attorney General opined that the amendments were effective July 1, 2002 because they were not declarative of existing law and the legislation did not expressly provide that the amendments were effective retroactively to a specific date.

cc : Secretary of Finance

Date: 03/04/03

Document : S:\2003leg\WorkInProgress\OTPwork\House Bills\HB1746FER161.doc