DEPARTMENT OF TAXATION
2006 Fiscal Impact Statement

1. Patron James M. Scott

2. Bill Number HB 1086

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Real Property Tax; Valuation of Affordable Housing

5. Summary/Purpose:

This bill would require that when determining the fair market value of real property operated as affordable housing, localities must consider (1) the impact of any legally imposed rent restrictions, (2) any additional operating expenses associated with affordable housing compliance requirements and (3) any legally imposed restrictions on the transfer of title. Additionally, this bill would require that federal or state income tax credits with respect to affordable housing not be considered real property or income attributable to real property.

The provisions of this bill would be applicable to the assessment of qualifying properties for tax years beginning January 1, 2007.

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

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would have not any effect on state revenues. To the extent that localities are not considering these factors in making assessments, local revenues may decrease.

9. Specific agency or political subdivisions affected:

All localities.

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Under current law, there are three methods that may be used for assessing real estate: (1) the sales comparison method; (2) the replacement cost less depreciation method; and (3) the capitalization of income method. The capitalization of income method values the property as the net present value of the future stream of income that will be generated by the property. Under current law, when using the capitalization of income method to value real property, the assessor must use economic rent, which is the amount that a typical lessee would be willing to pay for the right to use and occupy the premises, rather than the actual contract rent. However, current law requires the assessor to consider the contract rent and actual expenses regarding the property as evidence of economic rent. Current law is not clear whether federal or state income tax credits with respect to real property are to be considered when valuing real property.

Proposal

This bill would require that when determining the fair market value of real property operated as affordable housing, localities must consider (1) the impact of any legally imposed rent restrictions, (2) any additional operating expenses associated with affordable housing compliance requirements and (3) any legally imposed restrictions on the transfer of title or other restraints on alienation. Affordable housing would be determined as provided by § 42 of the Internal Revenue Code (IRC) or as determined by state law or local ordinance. Additionally, this bill would require that federal or state income tax credits with respect to affordable housing are not be considered real property or income attributable to real property.

Other Legislation

House Bill 1173 would require that when determining the fair market value of real property operated as affordable housing, the locality must consider an appropriate capitalization rate taking into account restrictions prescribed by any affordable housing programs including (a) applicable rent restrictions, (b) affordability requirements, (c) additional operating expenses associated with the compliance with the applicable requirements, and (d) restrictions on the transfer of title.

Senate Bill 138 would provide that, unless otherwise specifically provided in the *Code of Virginia,* the fair market value of real property must be determined by applying the percentage change in the average sales price of real property located in the same assessment area.

cc : Secretary of Finance

Date: 01/23/2006 JEM