

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Jay O'Brien

3. **Committee** Senate Finance

4. **Title** Real Property Tax; Fair Market Value
Defined

2. **Bill Number** SB 138

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill 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, unless such property was improved in the immediately preceding tax year, in which case the fair market value of the property must be determined by applying the percentage change in the average sales price and adding the value of the improvements. This bill would also provide that if the property was sold in an arms-length transaction in the immediately preceding tax year, its fair market value would be its sales price.

Under current law, in general, 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. Current law also provides specific assessment rules for certain types of real property.

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 revenues. The revenue impact on localities is unknown. To the extent that assessments determined using the methods required by this bill differ from assessments determined under currently authorized methods, this bill would impact local revenues.

9. Specific agency or political subdivisions affected:

All localities.

10. Technical amendment necessary: No.

11. Other comments:

Article X, § 2 of the Constitution of Virginia requires all assessments of real estate to be at their fair market value, to be ascertained as prescribed by law. The Virginia Supreme Court has defined “fair market value” to be “the price which it will bring when it is offered for sale by one who desires, but is not obliged, to sell it, and is bought by one who is under no necessity of having it.” 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.

Current law provides specific assessment rules for certain types of real property. For example, real estate that qualifies for use valuation must be assessed based on its value for its agricultural, horticultural, forest or open space use. Additionally, multi-unit real estate leased primarily to residential tenants must be determined without regard to its potential conversion to condominium or cooperative ownership.

Proposal

This bill 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, unless such property was improved in the immediately preceding tax year, in which case the fair market value of the property must be determined by applying the percentage change in the average sales price and adding the value of the improvements.

"Assessment area" would be defined as “a residential subdivision, residential development, commercial development, industrial area, or other area in which properties have similar qualities and characteristics such that it would be appropriate to treat all property located in the assessment area as comparables for real property assessment purposes, as determined by the local assessing officer.”

"Percentage change in the average sales price" would be defined as “the percentage increase or decrease in the average selling price for real property in the two most recent tax years for which information is available.”

This bill would also provide that if the property was sold in an arms-length transaction in the immediately preceding tax year, its fair market value would be its sales price.

Other Legislation

House Bill 155 would create a separate real property tax classification for residential property. Localities would be authorized to impose the local real property tax on residential property at a rate that does not exceed that applicable to the general class of real property.

House Bill 169 would provide that no locality may approve a real estate tax rate that would increase its total real estate tax levies by more than three percent from the previous year, with one exception. The exception would allow the locality to raise the property tax

levy by the rate of population growth plus inflation in the locality for the immediately preceding year, but not more than six percent.

House Bill 315 would provide that no locality may approve a real estate tax rate that would increase its total real estate tax levies by more than five percent from the previous year unless approved by at least a two-thirds majority vote of the governing body at the conclusion of a public hearing regarding the locality's real estate tax rate.

House Bill 897 would provide that no locality may approve a real estate tax rate that would increase its total real estate tax levies by more than five percent from the previous year , with one exception. The exception would allow the locality to raise the property tax levy by the rate of population growth plus inflation in the locality for the immediately preceding year.

cc : Secretary of Finance

Date: 01/16/2006 JEM