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SENATE BILL NO. 273

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 58.1-3295 and 58.1-3381 of the Code of Virginia, relating to assessments for affordable housing units.

Patron—Whipple

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3295 and 58.1-3381 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3295. Assessment of real property; affordable housing.

A. Notwithstanding any other provision of law, in determining the fair market value of real property ~~containing more than four residential units~~ operated in whole or in part as affordable rental housing, in accordance with the provisions of (i) 26 U.S.C. § 42, 26 U.S.C. § 142(d), 24 CFR § 983, 24 CFR § 236, 24 CFR § 241(f), 24 CFR § 221(d) (3), or any successors thereto; (ii) applicable state law; or (iii) local ordinances adopted by the locality wherein such real property is located, the duly authorized real estate assessor shall consider:

1. The rent and the impact of applicable rent restrictions;

2. The operating expenses and expenditures and the impact of any such additional expenses or expenditures; and

3. Restrictions on the transfer of title or other restraints on alienation of the real property.

The owner of real property ~~containing more than four residential units~~ that is operated in whole or in part as affordable rental housing in accordance with the definition of affordable rental housing established by ordinance or resolution of the locality in which the real property is located may make an application to the locality to have the real property assessed pursuant to this section. *Notwithstanding the provisions of § 58.1-3294, if the owner makes an application, the duly authorized real estate assessor may require the owner of affordable rental housing containing four or fewer residential units to furnish to such assessor statements of the income and expenses attributable over a specified period of time to each such parcel of real estate and to otherwise comply with the provisions of § 58.1-3294.* The application shall be granted by the locality if (i) the owner charges rents at levels that meet the locality's definition of affordable housing and (ii) the real property does not have any pending building code violations at the time of the application.

The duly authorized real estate assessor shall also consider evidence presented by the property owner of other restrictions imposed by law that impact the variables set forth in this subsection.

B. Federal or state income tax credits with respect to affordable housing rental property within the purview of subsection A shall not be considered real property or income attributable to real property.

C. For property where only a portion of the units are operated as affordable housing, as defined in § 42 of the Internal Revenue Code or as required by state law or applicable local ordinance, only the portion determined to be affordable housing shall be subject to this section.

D. The duly authorized real estate assessor shall not reduce the capitalization rate in determining the valuation for affordable housing within the purview of this section.

E. Notwithstanding the provisions of § 58.1-3379, a taxpayer seeking relief under this section shall have the burden of proof by a preponderance of the evidence that the valuation determined by the duly authorized real estate assessor is erroneous and was not arrived at in accordance with generally accepted practice and not in accordance with this section.

§ 58.1-3381. Action of board; notice required before assessment increase made; presumption for affordable rental property.

A. The board shall hear and determine any and all such petitions and, by order, may increase, decrease or affirm the assessment of which complaint is made; and, by order, it may increase or decrease any assessment, upon its own motion. No assessment shall be increased until after the owner of the property has been notified and given an opportunity to show cause against such increase, unless such owner has already been heard.

B. Any determination of the assessment by the board *on affordable rental housing as determined for property subject to § 58.1-3295* shall be deemed presumptively correct for the succeeding two years *or the remainder of the assessment cycle, whichever occurs first,* unless the assessor can demonstrate by clear and convincing evidence that a substantial change in value of the property has occurred. ~~This subsection shall apply to the City of Virginia Beach.~~ ldtitle>

INTRODUCED

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