

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** H. Morgan Griffith

2. **Bill Number** HB 430

House of Origin:

☐ **Introduced**

☐ **Substitute**

☐ **Engrossed**

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

4. **Title** Real Property Tax; Changes to Tax
Assessment Procedure

Second House:

☐ **In Committee**

☐ **Substitute**

☒ **Enrolled**

5. **Summary/Purpose:**

This bill would mandate additional requirements that an appraiser must satisfy in order to be certified by TAX to perform assessments or reassessments of real property. This bill would also provide that if a locality's real estate sales assessment ratio is higher than 130 percent in the year a general reassessment or annual assessment is effective, it would constitute prima facie proof that the locality has failed to assess at 100% of fair market value. This bill would also require that real property containing more than four residential units that is generating income as affordable rental housing be assessed using the income approach. This bill would also require that the assessing officer, upon the request of the taxpayer, furnish certain information regarding the methodology employed in his calculation of the property's assessed value. Additionally, this bill would also require that the assessing officer provide 14 days notice to the taxpayer concerning a request to increase the assessment on any commercial, multifamily residential, or industrial real property prior to the hearing on a taxpayer's complaint that the property is over-assessed or that the assessment was not uniform. If the taxpayer contests the requested increase, the locality would be required to obtain an appraisal performed by an independent appraiser. Finally, this bill would specify the composition of boards of equalization and panels thereof in any locality with a population in excess of 100,000.

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. This bill has the potential to decrease local revenues to the extent that it results in lower real property assessments. This bill could also increase costs for localities to defend their assessments, as localities may be required to obtain independent assessors in cases where the locality is seeking to increase the real estate tax assessment and the taxpayer contests the increase.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Assessor Qualifications

Current law prohibits real estate assessment supervisors, assessors, or appraisers from contracting to perform assessments or reassessments of real property for any locality without a valid certification issued by TAX. TAX is required to establish requirements for the certification of these individuals, and must prescribe qualifications for certification, including minimum education, experience, and standard conduct requirements. TAX is also authorized to establish requirements for continuing education as a prerequisite to renewal of any certification issued.

TAX has set forth requirements for the different personnel who deal with real estate appraisals and assessments, including assessors, deputy assessors, supervising real estate appraisers, senior real estate appraisers, real estate appraisers, real estate appraiser trainees, and professional assessors. The certification requirements differ for each office. For example, TAX requires that an appraiser possess working knowledge of real property appraisal techniques and building construction practices, knowledge of factors effecting the value of land, knowledge of the impact of zoning regulations, and the ability to read maps, soil studies, and building plans. An appraiser must have graduated from college, preferably with a degree in Business, Real Estate or Economics, and possess two years of real estate appraisal experience. In lieu of these requirements, an appraiser must have graduated from high school and possess four years of real estate appraisal experience.

By contrast, an assessor must graduate from college, preferably with a degree in Business, Real Estate, or Economics and possess six years of real estate appraisal experience, including three years administrative experience or any equivalent combination of experience and training, which provides the required knowledge, skills, and abilities.

TAX currently provides training through the Advanced Assessors School, which offers week long courses, as well as workshops. The course content and instructors are provided through the International Association of Assessing Officers. The school is an optional program provided to local assessors for a fee. The courses count toward continuing education credit hours for licensure through the Real Estate Appraiser Board.

The Real Estate Appraiser Board regulates individuals and firms who estimate the value of real estate. There are four levels of licensure. To receive licensure from the Real Estate Appraiser Board, appraisers must meet the following requirements:

Licensure Level	Requirements
Appraiser Trainee	75 hours of education Examination (no experience required)
Licensed Residential Appraiser	90 hours education 2,000 hours experience Examination
Certified Residential Appraiser	120 hours education 2,500 hours experience Examination
Certified General Appraiser	180 hours education 3,000 hours experience Examination

In addition to the current training and certification requirements that these individuals must possess, this bill would require that they receive training in conducting appraisals of certain multi-unit real estate and training in following generally accepted appraisal practices in order to be certified by TAX to perform local real estate assessments.

Sales Assessment Ratio

Virginia law currently requires that all general reassessments or annual assessments be made at 100% fair market value. If a locality fails to meet this requirement, TAX must notify the Comptroller, who is authorized to withhold the locality's share of the net profits derived from operation of the alcoholic beverage control system. If TAX's official assessment sales ratio study shows the locality to have a sales assessment ratio lower than 70% for the year in which the general reassessment or annual assessment is effective, this constitutes prima facie proof that the locality has failed to assess at 100% of fair market value. The sales assessment ratio is derived by dividing the assessed value of property by its selling price.

In addition to the 70% threshold, this bill would establish that when a locality's sales assessment ratio exceeds 130%, it would constitute prima facie proof that the locality has failed to assess at 100% of fair market value.

Assessments

Article X, Section 1 of the *Virginia Constitution* requires that all property be subject to tax. All taxes must be levied and collected under general laws and must be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. Article X, Section 2 requires all assessments of real estate and tangible personal property be made

at their fair market value, and authorizes the General Assembly to define and separately classify certain real estate, depending upon its use.

Under current law, there are three methods that may be used for assessing real estate: 1) the sales comparison method (market approach); 2) the replacement cost less depreciation method (cost approach); and 3) the capitalization of income method (income approach). 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.

In 2006, the General Assembly enumerated three special assessment considerations for assessing affordable rental housing when in accordance with the state law, local ordinance or § 42 of the Internal Revenue Code ("IRC"). 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. Federal or state income tax credits with respect to affordable housing are not to be considered real property or income attributable to real property.

This bill would mandate that real property containing more than four residential units that is generating income as affordable rental housing be assessed using the income approach, based on the property's current use, any income restrictions on the property, and the provisions of any arms length contract entered into with respect to the property. Federal or state income tax credits would not be considered income for purposes of determining the value of the applicable rental property.

This bill would also require the assessing officer to furnish information regarding the methodology employed in the calculation of a property's assessed value if a taxpayer or his representative requests such information. The officer would be required to furnish the capitalization rate used to determine the property's value, a list of comparable properties or sales figures considered in the valuation, and any other market surveys, formulas, matrices, or other factors considered in determining the value of the property, unless the disclosure of such information is otherwise prohibited. Under the provisions of this bill, if the assessing officer fails to furnish this information within at least five days before the circuit court trial to correct the erroneous assessment, or before the Board of Equalization hearing, the assessing official and the local government would be precluded from introducing such information during the proceeding.

Boards of Equalization

Circuit courts within each county or city are authorized to appoint a three-to-five member Board of Equalization, whose purpose is to hear complaints regarding a lack of uniformity or errors in acreage in a real property assessment, and complaints that real property is assessed at more than fair market value. Once the Board hears these complaints, it is authorized to increase or decrease assessments based on fairness.

Boards of Equalization members must be residents of the county or city in which they will serve, and must be appointed from the citizens of the county or city. Thirty percent of the members of the board must be commercial or residential real estate appraisers, other real

estate professionals, builders, developers, or legal or financial professionals. Board members are required to attend and participate in a course given by TAX, and once every four years of service, each Board member must take continuing education instruction provided by the Tax Commissioner.

Under the terms of this bill, in a locality with a population that exceeds 100,000, thirty percent of the members of the board would have to be commercial or multifamily residential real estate appraisers who are licensed and certified by the Virginia Real Estate Appraiser Board to serve as general real estate appraisers, other commercial or multifamily real estate professionals or licensed commercial or multifamily real estate brokers, builders, developers, active members of the Virginia Bar, or other legal or financial professionals with knowledge of the valuation of property, real estate transactions, building costs, accounting, finance or statistics. The bill would define commercial or residential property as any property that is either operated as or zoned for use as commercial, industrial, or multifamily residential rental property.

This bill would also provide that in cases to correct erroneous assessments before a Board of Equalization or a circuit court, if, within at least five days prior to such action, the assessing officer does not furnish information that is required to be disclosed or made available for inspection and copying, the assessing official and the local government would not be allowed to introduce this information or use it in any such appeal.

In addition, this bill would provide that in any case before the board in which the commissioner of the revenue or other local assessing officer requests the board to increase the assessment after the taxpayer files an appeal to the board on a commercial, multifamily residential or industrial property, the commissioner or other local officer would be required to provide the taxpayer with notice of the request not less than 14 days prior to the hearing of the board. If the taxpayer contests the increase, the assessor would be required to either withdraw the request or provide the board an appraisal performed by an independent contractor who is licensed and certified by the Virginia Real Estate Appraiser Board to serve as a general real estate appraiser, and who affirms that the increase in value represents the property's fair market value as of the date of the disputed assessment. These provisions requiring the assessor to provide the board with an appraisal would not apply if the requested increase is based on mistakes of fact, including computation errors, or if the information on which the commissioner or other officer based the requested increase was available to, but not provided by, the taxpayer in response to a request for information made by the commissioner or other officer at the time the challenged assessment was made.

Evidentiary Standard to Correct Erroneous Assessments

During a Board of Equalization hearing, the owner of the real property has the burden of proving that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. Under current law, the taxpayer is required to produce substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in accordance with generally accepted appraisal practice in order to receive relief.

In addition to showing that the assessor's valuation was not arrived at in accordance with generally accepted appraisal practice, under the terms of this bill, the owner would also be required to show that the valuation was not arrived at in accordance with generally accepted procedures, rules and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers.

Similar Legislation

House Bill 233 and Senate Bill 273 (identical) would require that for assessments for tax years beginning on or after January 1, 2011, real property that is generating income as affordable housing be assessed using the income approach based on the property's current use, any income restrictions on the property, and any arms length contract provisions entered into with respect to the real property.

House Bill 570 would change the burden of proof from the taxpayer to the assessor when a taxpayer appeals the assessment of real property to a Board of Equalization or to a circuit court.

cc : Secretary of Finance

Date: 3/4/2010 KP
DLAS File Name: HB430FER161.