

DEPARTMENT OF TAXATION

2008 Fiscal Impact Statement

1. **Patron** Mary Margaret Whipple

3. **Committee** Senate Finance

4. **Title** Real Property Tax; Affordable Rental Housing.

2. **Bill Number** SB 299

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would impose additional requirements on certain real property in order that it may qualify for the special assessment rules for affordable rental housing. For any real property containing more than four residential units that (1) qualifies as affordable housing under the locality's definition or criteria for affordable housing or (2) contains one or more units designated by the locality as committed for affordable rental housing, at least one of the four units must have operated as affordable rental housing for each of the 12 months of the most recently ended tax year and during such year all building code violations relating to the real property must have been abated or remedied. In the event that any such property would qualify for the special assessment rules but for a building code violation that occurred in the most recently ended tax year, the property may qualify for the special assessment rules if the building code violation is abated or remedied within the 90 days following the last day of the tax year. Additionally, the special assessment rules would only apply to those units operated or designated as affordable housing.

Under current law, real property operated as affordable housing may qualify for special assessment rules. 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 be considered real property or income attributable to 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 not have any effect on state revenues. The revenue impact on each locality would be dependent upon the assessed value of property subject to the special assessment considerations and the impact those considerations have on assessments.

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.

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 be considered real property or income attributable to real property.

Proposal

This bill would impose additional requirements on certain real property in order that it may qualify for the special assessment rules for affordable rental housing. For any real property containing more than four residential units that (1) qualifies as affordable housing under the locality's definition or criteria for affordable housing or (2) contains one or more units designated by the locality as committed for affordable rental housing, at least one of the four units must have operated as affordable rental housing for each of the 12 months of the most recently ended tax year and during such year all building code violations relating to the real property must have been abated or remedied.

In the event that any such property would qualify for the special assessment rules but for a building code violation that occurred in the most recently ended tax year, the property may qualify for the special assessment rules if the building code violation is abated or remedied within the 90 days following the last day of the tax year. Additionally, the special assessment rules would only apply to those units operated or designated as affordable housing.

cc : Secretary of Finance

Date: 1/18/2008 jkl
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