

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** H. Morgan Griffith

3. **Committee** House Finance

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

2. **Bill Number** HB 430

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would clarify the requirements that an appraiser must satisfy in order to be certified by TAX to perform assessments or reassessments of real property. The bill would also provide that for any category of real estate, if a locality's sales assessment ratio is higher than 110 percent in the year a 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. This bill would also require real property containing more than four residential units operated as affordable rental housing to be assessed using the income production assessment methodology. The bill would also require the assessing officer of a locality, upon request of any taxpayer or the taxpayer's representative, to furnish certain information regarding the methodology employed in the calculation of a property's assessed value. Additionally, this bill would lower the evidentiary standard for a taxpayer seeking to show that a real estate assessor's valuation is erroneous. Finally, this bill would change the structure of local Boards of Equalization and the processes by which they operate.

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 would also increase costs for localities to defend their assessments, as localities would be required to obtain independent assessors in cases where the locality is seeking to increase the real estate tax assessment.

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 110%, this also constitutes 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 operated as affordable rental housing be assessed using the income production assessment methodology based on the property's current use, income restrictions, contract provisions, and any other provision that would reduce the amount of income attributable to the property.

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, 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 clarify that the continuing education instruction provided by the Tax Commissioner must include guidance for conducting appraisals of certain multi-unit real estate and generally accepted appraisal practice.

In addition, this bill would provide that in cases before the board in which the commissioner of the revenue or other local assessing officer requests the board to increase the assessment on the taxpayer's property, the assessor would be required to 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.

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.

This bill would lower the real property owner's evidentiary standard to a preponderance of the evidence to show that the property has been valued at more than its fair market value. 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, the Appraisal Institute, and the Appraisal Foundation.

Board's Discretion to Increase Assessment

Under current law, a Board of Equalization may not increase an assessment until after the property owner receives notification and is given an opportunity to show cause against the increase, unless the owner has already been heard.

This bill would add the requirement that the Board of Equalization may not increase an assessment until after the increase in value has been affirmed by an independent contractor who is licensed and certified by the Virginia Real Estate Appraiser Board to serve as a general real estate appraiser.

The effective date of this bill is not specified.

Similar Legislation

House Bill 233 and Senate Bill 273 (identical) would: 1) authorize real estate assessors to require owners of affordable rental housing containing four or fewer residential units to furnish the assessor with statements of the income and expenses attributable over a specified period of time to each parcel of real estate; 2) lower the burden of proof to a preponderance of the evidence for a taxpayer seeking to show that the real estate

assessor's valuation is erroneous; 3) prohibit assessors from reducing capitalization rates; and 4) provide that any determination of the assessment by the board on affordable renting housing would 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 presumption would apply in all localities, rather than solely in the City of Virginia Beach.

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.

House Bill 577 would increase the time a taxpayer may appeal the assessment of his real estate to the commissioner of the revenue 1) from three years to five years from the last day of the tax year for which the assessment is made; or 2) from one year to three years from the date of the assessment, whichever is later.

Senate Bill 271 would authorize the Board of Supervisors of localities with a county manager plan of government to appoint a Board of Equalization of Real Estate Assessments.

cc : Secretary of Finance

Date: 1/24/2010 KP
DLAS File Name: HB430F161.