

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Timothy D. Hugo

3. **Committee** House Finance

4. **Title** Real Property Tax; Criteria for Determining
Fair Market Value for Residential Rental
Property

2. **Bill Number** HB 1073

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would mandate that in determining the fair market value of real property operated as residential rental housing, the local real estate assessor must consider: 1) the actual gross income generated from such residential rental housing and any resultant loss in income attributable to vacancies, collection losses, and rent concessions; and 2) the actual operating expenses and expenditures and the impact of any additional expenses or expenditures. The bill would also authorize the real estate assessor to require the residential rental housing owner to furnish to the assessor statements of the income and expenses attributable over a specified period of time to each such parcel of real estate, and to comply with all laws applicable to properties with more than four residential rental housing units. Finally, the bill would require that any property that is generating income as residential rental housing be assessed using the income approach.

Under current law, there is generally no mandate as to what specific factors the local real estate assessor must consider in determining the fair market value of real property operated as residential rental housing, unless the property is operated as affordable rental housing.

This bill would be effective for tax years beginning on or after January 1, 2012. This bill contains an emergency clause and would be in force from its passage.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

This bill would have no impact on state revenues. As this bill may result in lower real property assessments, this bill has the potential to decrease local revenues.

9. **Specific agency or political subdivisions affected:**

All localities

10. Technical amendment necessary: No.

11. Other comments:

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). Using the income approach, an appraiser estimates the net income (before debt service) that a property can earn for its owner. That projected income is then capitalized into an estimate of value. The economic principle governing this concept is that value equals the present worth of the future net benefits of ownership.

Affordable Rental Housing Assessments

Under current law, owners of real property operated in whole or in part as affordable rental housing may apply to the locality in which the property is located to have the real property assessed under special rules for affordable housing. The locality must grant the application if 1) the owner charges rents at levels that meet the locality's definition of affordable housing and 2) the real property does not have any pending building code violations at the time of the application.

Under these special assessment rules, in order to determine the fair market value of real property that is operated as affordable rental housing, the real estate assessor must consider: 1) the contract rent and the impact of applicable rent restrictions; 2) the actual 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 assessor must also consider evidence presented by the property owner or other restrictions imposed by law that impact these variables.

Reports of Income Data

In general, real estate assessors may require the owners of all income producing real property, including owners of property assessed as affordable rental housing, to furnish a statement of income and expenses. Exceptions to the general requirement are allowed for income producing property solely from the rental of no more than four dwelling units and property being used exclusively as an owner-occupied property.

Real property owners must certify the accuracy of the income statements, and the statements must be kept confidential. If the owners of income-producing property fail to

meet their requirements to furnish the income statements, they will be prohibited from introducing into evidence or using such information in any judicial actions to correct an erroneous assessment.

Proposal

This bill would mandate that in determining the fair market value of real property operated as residential rental housing, the local real estate assessor must consider: 1) the actual gross income generated from such residential rental housing and any resultant loss in income attributable to vacancies, collection losses, and rent concessions; and 2) the actual operating expenses and expenditures and the impact of any additional expenses or expenditures. The bill would also require the real estate assessor to consider any evidence the property owner provides that is relevant to determining fair market value of the property. Where only a portion of the units on a given piece of property are operated as residential rental housing, the bill would provide that only the portion determined to be residential rental housing would be subject to this requirement. The bill would also authorize the real estate assessor to require the residential rental housing owner to furnish to the assessor statements of the income and expenses attributable over a specified period of time to each such parcel of real estate, and to comply with all laws applicable to properties with more than four residential rental housing units. Finally, the bill would require that any property that is generating income as residential rental housing be assessed using the income approach.

This bill would become effective for assessments for tax years beginning on or after January 1, 2012. This bill contains an emergency clause and would be in force from its passage.

Similar Bills

Senate Bill 73 is identical to this bill.

Senate Bill 48 is similar to this bill.

House Bill 31 would require real property assessors to base their fair market value determinations for real property solely on permissible uses of such property, when the property's use is subject to federal, state or local restrictions.

House Bill 80 would require the local assessing official to separately assess the fair market value of wetlands on real property if requested by the property owner.

cc : Secretary of Finance

Date: 1/21/2012 KP
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