

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Timothy D. Hugo

2. **Bill Number** HB 1073

3. **Committee** Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Real Property Tax; Criteria for Determining
Fair Market Value for Residential Rental
Property in Appeals to Boards of
Equalization

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

This bill would mandate that the board of equalization consider the following in appeals of real property assessments for residential rental apartments in excess of four units: 1) the actual gross income generated from the real property and any resultant loss in income attributable to vacancies, collection losses, and rent concessions; 2) the actual operating expenses and the impact of any additional expenses; and 3) any other evidence relevant to determining the fair market value. The bill would also require that the board value such residential rental apartments using the income approach, except when the real property has been sold since the previous assessment, improvements on such real property are being made, or the value arrived at by the income approach does not accord with generally accepted appraisal practices and standards prescribed by the International Association of Assessing Officers.

This bill would be 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.

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.

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. There is a general presumption that the valuation made by the assessor is correct and the taxpayer has the burden on appeal to the board to rebut the presumption and show by a preponderance of the evidence that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application and was not arrived at in accordance with generally accepted appraisal practices, procedures, rules and standards. Where a taxpayer owns property containing less than four residential units and appeals the

assessment, the assessing officer, upon the taxpayer's written request, must provide the taxpayer or representative copies of the assessment records pertaining to the assessing officer's determination of fair market value of the property. Once the Board hears these complaints, it is authorized to increase or decrease assessments based on fairness.

Proposal

This bill would mandate that the board of equalization consider the following in appeals of real property assessments for residential rental apartments in excess of four units: 1) the actual gross income generated from the real property and any resultant loss in income attributable to vacancies, collection losses, and rent concessions; 2) the actual operating expenses and the impact of any additional expenses; and 3) any other evidence relevant to determining the fair market value. If only a portion of the real property is operated as residential rental apartments, only the portion operated as residential rental apartments would be subject to this mandate.

Boards of Equalization would also be required to value such residential rental apartments using the income approach, except when the real property has been sold since the previous assessment, improvements on such real property are being made, or the value arrived at by the income approach does not accord with generally accepted appraisal practices and standards prescribed by the International Association of Assessing Officers. Where property has been sold, the board would be authorized to consider the sales price of the property and where improvements have been made or the value of the real property does not accord with generally accepted appraisal practices, the board would be permitted to consider the market value of such property.

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.

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.

House Bill 81 would prohibit local assessing officials from considering prior, discontinued uses of property in determining its current use for land use valuation purposes.

House Bill 483 would provide that the current authority to increase the assessment of real property taxes for three preceding tax years by increasing the amount of the valuation of the property applies only to errors related to 1) new construction or improvements to the property; 2) a change in the use of the property; or 3) fraud on the part of the taxpayer.

cc : Secretary of Finance

Date: 2/20/2012 KP
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