

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** John C. Watkins

2. **Bill Number** SB 73

3. **Committee** House Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

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

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

This bill would mandate that, upon the request of the taxpayer, in any appeal to a circuit court or board of equalization of a real property assessment filed by a taxpayer owning real property containing more than four residential units, the fair market value must be determined by evidence that shows: 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; 2) the actual operating expenses and expenditures and the impact of any additional expenses or expenditures; and 3) any other evidence relevant to determining fair market value of the property. The bill would also 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.

Proposal

This bill would mandate that in any appeal to the circuit court or the board of equalization of the real property assessment filed by a taxpayer that owns real property containing more than four residential units, upon the request of the taxpayer, the fair market value must be determined by evidence that shows: 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; 2) the actual operating expenses and expenditures and the impact of any additional expenses or expenditures; and 3) any other evidence 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 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

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 1073 would establish criteria by which an assessor must determine fair market value for real estate used in whole or in part as residential rental property as defined by ordinance or the locality.

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: 2/14/2012 KP
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