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HOUSE BILL NO. 2245

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on _____)

(Patron Prior to Substitute—Delegate Callsen)

A BILL to amend and reenact § 58.1-3295 of the Code of Virginia, relating to real property tax; assessment of affordable rental housing.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3295 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3295. Assessment of real property; affordable rental housing.

A. Notwithstanding any other provision of law, in determining the fair market value of real property operated in whole or in part as affordable rental housing, in accordance with the provisions of ~~(i)~~ 12 U.S.C. § 1701q, 26 U.S.C. § 42, 26 U.S.C. § 142(d), 42 U.S.C. § 1485, 42 U.S.C. § 1437f as it applies to programs providing project-based assistance as defined in subsection (f)(6) of such section, 24 C.F.R. § 983, 24 C.F.R. § 236, 24 C.F.R. § 241(f), 24 C.F.R. § 221(d)(3), § 8 of the Housing Act of 1937, §§ 515 and 538 of the Housing Act of 1949, § 202 of the Housing Act of 1959, the federal Rental Assistance Demonstration program established under the Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55), or any successors thereto; ~~(ii) applicable state law; or (iii) local ordinances adopted by the locality wherein such real property is located,~~ the duly authorized real estate assessor shall consider:

1. The contract rent and the impact of applicable rent restrictions;

2. Restrictions on the transfer of title or other restraints on alienation of the real property; and

3. The actual operating expenses and expenditures and the impact of any such additional expenses or expenditures. If an owner has two or more units of real property that (i) are operated in whole or in part as affordable rental housing and (ii) are controlled by a single restrictive use agreement regulating income and rent restrictions, and the owner has expenses and expenditures common to two or more such units, and such expenses and expenditures cannot practicably be attributed to a particular unit, then the owner has a right to have the assessor make a pro rata apportionment of such expenses and expenditures to each such unit based on each unit's assessed value as a percentage of the total assessed value of all such units. The provisions of this subdivision apply whether or not the units are in one tax parcel or multiple tax parcels.

Affordable rental housing that is not assessed with the income approach shall be re-assessed in accordance with subsection E when it generates income.

B. The owner of real property that is operated in whole or in part as affordable rental housing in accordance with the definition of affordable rental housing established by ordinance or resolution of the locality in which the real property is located may make an application to the locality to have the real property assessed pursuant to this section. Notwithstanding the exception in § 58.1-3294 for an owner of four or fewer residential units, upon application by such an owner, the duly authorized real estate assessor may require the owner to furnish to such assessor, board, or department statements of the income and expenses attributable over a specified period of time to each such parcel of real estate in the manner required by § 58.1-3294 and to comply with all provisions of § 58.1-3294 applicable to properties with more than four rental dwelling units. The application shall be granted by the locality if (i) the owner charges rents at levels that meet the locality's definition of affordable rental housing and (ii) the real property does not have any pending building code violations at the time of the application.

The duly authorized real estate assessor shall also consider evidence presented by the property owner of other restrictions imposed by law that impact the variables set forth in this subsection.

C. Federal or state income tax credits with respect to affordable rental housing ~~rental~~ property within the purview of subsection A shall not be considered real property or income attributable to real property.

D. For property where only a portion of the units are operated as affordable rental housing, as defined in § 42 of the Internal Revenue Code or as required by state law or applicable local ordinance, only the portion determined to be affordable rental housing shall be subject to this section.

E. Notwithstanding any other provision in this section or other law, ~~the real property governed by this section~~ affordable rental housing that is generating income as affordable housing and operated in accordance with the provisions of federal law enumerated in subsection A, shall be assessed using the income approach as set forth in subsection A based on: the property's current use, contract rent, income restrictions, provisions of any arm's-length contract including ~~but not limited to~~ restrictions on the transfer of title or other restraints on alienation of the real property, operating expense and capitalization rate data from comparable affordable housing, and the requirements of subsection B; ~~and all other provisions of this section.~~

F. The Department shall develop a uniform income and expense reporting form that may be provided by duly authorized assessors and completed by the owners of affordable rental housing properties prior to assessment of such affordable rental housing properties. Such owner's completion and submittal to the

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60 assessor of the uniform income and expense reporting form developed in accordance with this section shall
61 be deemed to comply with the requirements of § 58.1-3294.

62 *G. If the duly authorized real estate assessor fails to comply with subsection E and an owner of affordable*
63 *rental housing that is generating income subsequently prevails in an appeal of an assessment performed by*
64 *such assessor to a board of review, board of equalization, or any court of competent jurisdiction, the locality*
65 *for which such assessment was performed shall reimburse such owner for reasonable attorney fees and costs*
66 *incurred in bringing and prosecuting the appeal. However, the locality shall not be required to reimburse*
67 *such owner as provided in this subsection if such owner has failed to comply with the requirements in subsect*
68 *ion B.*

69 **2. That the Department of Taxation shall develop, in consultation with a stakeholder group, a uniform**
70 **income and expense reporting form that may be provided by duly authorized assessors and completed**
71 **by the owners of affordable rental housing properties prior to assessment of such affordable rental**
72 **housing properties. The stakeholder group shall be comprised of representatives of affordable rental**
73 **housing owners, affordable rental housing advocates, local government representatives, and local**
74 **commissioners of the revenue. The form shall only require inclusion of the name and personal home**
75 **address of the owner of the affordable rental housing, the physical address of the affordable rental**
76 **housing, the current rental rate of any dwelling upon such property, any tenant concessions, the gross**
77 **annual rental income and any other revenues incidental thereto for such property, the vacancy rate of**
78 **any dwelling units upon such property, the current collection loss rate, any annual reserve for**
79 **replacements, and the annual operating expenses for such property. The form shall be completed no**
80 **later than September 1, 2025. The Department of Taxation shall, no later than November 1, 2025,**
81 **provide a letter to the Chairs of the Senate Committee on Finance and Appropriations and the House**
82 **Committee on Finance, with an update on the development of such form and implementation of**
83 **training for assessing officials and contracted assessors on the assessment of affordable rental housing.**

84 **3. That the provisions of the first enactment this act shall become effective for assessments beginning**
85 **on or after January 1, 2026.**