

**DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement**

1. **Patron** Carrie E. Coyner

2. **Bill Number** HB 1446

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Real property tax; Assessment of real property used for affordable housing

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would require the duly authorized real estate assessor of a locality to appraise affordable rental housing in accordance with the income approach as described in the bill. The bill would also provide that, should the duly authorized real estate assessor fail to follow generally accepted appraisal practices, the assessment will not be entitled to a presumption of correctness and, if the owner then successfully appeals such assessment, the locality shall reimburse the owner for attorney fees and costs incurred.

Under current law, assessors of affordable housing are required to consider (i) the contract rent and rent restrictions, (ii) restrictions on transfer of title or alienation of the property, and (iii) the actual operating expenses and expenditures and the impact of any such additional expenses or expenditures. Real property that is generating income as affordable housing is to be assessed using the income approach based on, in addition to the aforementioned requirements (i) the property's current use, (ii) income restrictions, (iii) 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, and (iv) requirements for the owner to supply income and expense statements if the owner applies for assessment as affordable housing.

If enacted during the regular session of the 2024 General Assembly, this bill would become effective July 1, 2024.

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

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

8. Fiscal implications:

Administrative Costs

This bill would have an unknown impact to local administrative costs but no impact to state costs.

Revenue Impact

This bill would have an unknown impact to local revenues but no impact to state revenues.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Under current law, in determining the fair market value of real property used in whole or in part for affordable housing, assessors are required to consider (i) the contract rent and rent restrictions, (ii) restrictions on transfer of title or alienation of the property, and (iii) the actual operating expenses and expenditures and the impact of any such additional expenses or expenditures.

Current law also requires that, in addition to the aforementioned requirements, real property that is generating income as affordable housing is to be assessed using the income approach based on (i) the property's current use, (ii) income restrictions, and (iii) 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. The assessment shall also take into consideration the owner's income and expense statements if the owner applies for assessment as affordable housing and other evidence provided by the owner of other restrictions imposed by law that impact the variables used by the assessor.

Federal or state income tax credits with respect to affordable housing rental property are not considered real property or income attributable to real property. For property where only a portion of the units are operated as affordable housing, only the portion determined to be affordable housing is assessed according to these rules.

Proposal

This bill would require the duly authorized real estate assessor of a locality to appraise affordable rental housing in accordance with the modified income approach enumerated in the bill.

The bill would require the assessor to first determine whether the property is encumbered by short-term leases at rents that are reflective of market conditions. If the property is so encumbered, the assessor shall use the direct capitalization technique to arrive at the property's assessment. If the property is encumbered by leases with contract rents that differ from market rents, the assessor may use the yield capitalization technique to arrive at the property's assessment.

The bill would further require that, in using the income approach to arrive at assessments of affordable rental housing properties, the assessor must:

- (i) Use available data of comparable affordable rental housing properties and the potential earnings capacity of the real property as is necessary and appropriate to estimate the gross income potential of the real property without regard to Federal or state income tax credits;
- (ii) Analyze operating expense data of comparable affordable rental housing properties and the actual operating expense data for the real property as is necessary and appropriate to estimate the operating expenses of the real property;
- (iii) Base projections of future income potential and operating expenses for the real property on reasonably clear and appropriate evidence;
- (iv) Weigh historical information and trends, current supply and demand factors, and anticipated events such as competition from developments under construction when developing or reconstructing income and expense statements and cash flow projections for the real property;
- (v) Analyze occupancy rates for comparable affordable rental housing properties to estimate the stabilized occupancy of the real property;
- (vi) Analyze replacement reserves for comparable affordable rental housing properties as are necessary and appropriate to estimate the costs to repair or replace buildings or make other improvements to meet governing regulatory requirements;
- (vii) Analyze such data as is available to estimate rates of capitalization or rates of discount for use in an income approach to assess the real property, taking into account the influence of the real property's locational characteristics, condition, occupancy, rate of cash flow, and related factors on the fair market value of the real property; and
- (viii) Analyze other potential influences on the fair market value of the real property, including the real property's current use, the real property's income restrictions, preservation agreements governing or applicable to the real property, physical needs assessments and inspections of the real property by regulatory agencies, and restrictions on the transfer of title to the real property or other restraints on alienation of the real property.

The bill would prohibit the use of mass appraisal techniques for those affordable rental housing properties whose owners provide income and expense statements attributable to such properties within the timeframe requested by the assessor.

The bill provides that boards of equalization and boards of review hearing appeals of assessments of affordable rental housing properties shall utilize these same standards. The bill further provides that the assessor shall maintain and provide the owner or its agent with prompt access to all the materials collected, verified, or analyzed in arriving at the owners' assessments.

The bill would also provide that, should the duly authorized real estate assessor fail to follow generally accepted appraisal practices, the assessment will not be entitled to a presumption of correctness, and if the owner then successfully appeals such assessment, the locality shall reimburse the owner for attorney fees and costs incurred.

If enacted during the regular session of the 2024 General Assembly, this bill would become effective July 1, 2024.

Similar Legislation

House Bill 1380 is identical to this bill.

cc : Secretary of Finance

Date: 1/26/2024 VB
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