VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 58.1-3295 of the Code of Virginia, relating to assessments for affordable housing units.

[S 273]

Approved

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 housing.

A. Notwithstanding any other provision of law, in determining the fair market value of real property containing more than four residential units operated in whole or in part as affordable rental housing, in accordance with the provisions of (i) 26 U.S.C. § 42, 26 U.S.C. § 142(d), 24 CFR § 983, 24 CFR § 236, 24 CFR § 241(f), 24 CFR § 221(d) (3), 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 rent and the impact of applicable rent restrictions;

2. The 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 owner of real property containing more than four residential units 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. The application shall be granted by the locality if (i) the owner charges rents at levels that meet the locality's definition of affordable 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.

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

C. For property where only a portion of the units are operated as affordable 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 housing shall be subject to this section.

D. Notwithstanding any other provision in this section or other law, the real property governed by this section that is generating income as affordable housing shall be assessed using the income approach based on: the property's current use, 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, the requirements of subsection B, and all other provisions of this section.

2. That the provisions of this act shall become effective for assessments for tax years beginning on or after January 1, 2011.