HOUSE BILL REPORT
HB 2059

As Reported by House Committee On:
Housing

Title: An act relating to the property valuation of affordable multifamily rental housing.

Brief Description: Providing for the property valuation of affordable multifamily rental housing.

Sponsors: Representatives Miloscia, Schindler, Kelley, Eddy, Quall, McCune, Simpson and Hurst.

Brief History:
Committee Activity:
Housing: 2/15/07, 2/26/07 [DPS].

Brief Summary of Substitute Bill

- Outlines factors that should be taken into account when assessing the value of rental properties subject to government restrictions.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Miloscia, Chair; Springer, Vice Chair; Dunn, Ranking Minority Member; Kelley, McCune, Ormsby and Schindler.

Staff: Robyn Dupuis (786-7166).

Background:

Property Taxes
All real and personal property in this state is subject to property tax each year based on its value, unless a specific exemption is provided by law. The State Constitution requires that property taxes be applied uniformly, and state law requires that the taxes be based on the "true and fair" value of the property for most classes of property. The "true and fair" value of property means the market value and is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into

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consideration all uses to which the property is adapted and might in reason be applied. The requirement applies to both real and personal property.

An exception to the requirement to value property uniformly was provided for farm and agricultural, timber, and open space lands through constitutional amendment in 1968. Property tax applies to these types of real property based on the value of the property according to its "current" use. Current use valuation is based on the present use of the land.

Property Taxes - Approaches to Valuation. The county assessor determines assessed value for each property through an appraisal process. There are three fundamental appraisal methods to establish the "true and fair" value of property which may be used independently or in combination, depending upon the nature of the property. These methods are: sales, cost, and income.

- **The sales method** is based on sales of comparable properties in the same area within the preceding five years. If the appraisal relies on comparable sales, the appraisal must be consistent with development regulations and any other governmental policies or practices in effect at the time of the appraisal that affect the use of the property.
- **The cost method** is based on an estimation of the cost to replace the structure.
- **The income method** involves a determination of the present value or the income potential of the property.

With respect to the "current use" program, valuations are based on the use at hand. For example, farm land values are determined by capitalizing the net cash rental value of similar lands. Forest lands are valued similarly, based only on their use for growing timber. Open space land value is established either by a system adopted by the county legislative authority or else, in the absence of such a system, by the approach used to value farm lands.

A property's tax bill is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located.

Property Taxes - Appeals Process. Property valuations may be appealed to the County Board of Equalization. The County Board reviews appeals and may order a change in the valuation based on facts presented. The decision by the County Board may be appealed to the State Board of Tax Appeals. Property owners still dissatisfied with the valuation may file an action in superior court. As an alternative to the administrative process, a written protest may be filed at the time tax is paid and an action filed in superior or federal court.

Summary of Substitute Bill:

A property tax assessment may not consider a highest and best use for a property that is not permitted for that property under existing zoning or land use planning ordinances or statutes or other government restrictions.

For property assessments, consideration should be given to any agreement with a government agency that restricts rental income, appreciation, and liquidity, and to the impact of government restrictions on operating expenses and on ownership rights.

Substitute Bill Compared to Original Bill:

The language outlining specific guidelines and methods to be used by assessors when valuing rent-restricted affordable housing properties is removed. Assessors should instead take into account government restrictions of rental income, appreciation, and liquidity when valuing property. Assessments may not assume a highest and best use of a property that is not permitted for that property. An emergency clause is added.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support of original bill) This bill is intended to promote uniformity in the valuation of affordable rental properties, clear the overwhelming case loads of tax boards, and promote affordable housing. There is a great need for consistency in methods of valuation across the state. The income capitalization method is the logical choice for rent-restricted properties; it is also a very commonly used method and shouldn't present a hardship to developers. The real value of these properties is lower than other market-rate apartment developments given a lower net operating income and restrictions on the liquidity of the asset. Comparing these properties to non-profit or Housing Authority properties isn't fair since it's the mission of such groups to preserve affordable housing. Unduly high property taxes means that the operation and maintenance of rental properties suffer since, given the government imposed rent-restrictions, property owners cannot pass on the increased costs to tenants. The emergency clause is needed given the number of appeals clogging the local tax boards. This legislation will encourage additional low-income housing development.

(Opposed to original bill) The specific methodology outlined in this bill is restrictive and there is a grave concern that it would move valuation of a property away from the fair- market standard. Furthermore, allowing a specific valuation process for a specific type of business arguably creates a separate class of property and this is a constitutional conflict. There is also a constitutional conflict with the retroactive application of this legislation since some properties within the same class (those with appeals outstanding) would be treated differently than others. It is the job of the assessor to divide the tax fairly amongst properties. Most of the properties in question are in rural areas and the rent-restrictions are actually quite close to market rent rates. These projects are money makers and there are financial reasons that developers invest and continue to line-up to invest in such projects. Once the tax credits expire, developers sell the properties at enormous profits. This legislation would simply add to a developer's profit; it would not in any way benefit low-income renters. A small group of investors would reap large rewards from this legislation and have a huge advantage over other real estate investors who are not involved in subsidized housing projects. There are many examples of market sales of such properties that could be used in a fair evaluation of value. This legislation does not address an emergency, it is clearly a way to circumvent the current legal process which is on-going.

Persons Testifying: (In support of original bill) Amber Carter, Association of Washington Business; Chris Robinson and Warren Westad, Council for Affordable Rural Housing; Trygve Herman, Ad West Realty; and Steve Peterson, City of Liberty Lake.

(Opposed to original bill) Wes Hagen and Melinda Miller, Skagit County Assessor's Office; and Brad Flaherty, Washington State Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.