

AFFORDABLE HOUSING TAX AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to the assessment of real property subject to a low-income housing covenant.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prescribes a valuation method for determining the fair market value of real property subject to a low-income housing covenant;
- ▶ requires a county assessor to send a form approved by the State Tax Commission to each owner of real property subject to a low-income housing covenant; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-301.3, as last amended by Laws of Utah 2012, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-2-301.3** is amended to read:

29 **59-2-301.3. Definitions -- Assessment of real property subject to a low-income**
30 **housing covenant.**

31 (1) As used in this section:

32 (a) [~~"low-income~~] "Lease up period" means the period that begins the day on which
33 residential housing located on real property subject to a low-income housing covenant is
34 available for occupancy and ends the day on which the residential housing achieves 90%
35 occupancy for a continuous three-month period.

36 (b) "Low-income housing covenant" means an agreement:

37 (i) between:

38 (A) the Utah Housing Corporation or a government entity; and

39 (B) an owner of real property upon which residential rental housing is located; [~~and~~]

40 (ii) in which the owner described in Subsection [~~(1)(a)(i)(B)~~] (1)(b)(i)(B) agrees to
41 limit the amount of rent that a renter may be charged for the residential rental housing; and

42 (iii) that is filed with the county recorder in the county in which the real property is
43 located.

44 [~~(b) "residential"~~] (c) "Residential rental housing" means housing that:

45 (i) is used:

46 (A) for residential purposes; and

47 (B) as a primary residence; and

48 (ii) is rental property.

49 (2) (a) A county assessor shall, in determining the fair market value of real property
50 subject to a low-income housing covenant[;]:

51 (i) use the income capitalization approach, if the county assessor finds that the income
52 capitalization approach is a valid indicator of the property's fair market value;

53 (ii) in using the income capitalization approach:

54 (A) calculate the property's net operating income using the reduced rent amounts that
55 result from the low-income housing covenant; and

56 (B) during the lease up period, account for rent loss due to vacancy and lease up costs;
57 and

58 (iii) take into account all other relevant factors that affect the fair market value of the
59 property, including[+] the information provided in accordance with Subsection (3).

60 ~~[(a) the information provided in Subsection (3); and]~~

61 ~~[(b) any effects the low-income housing covenant may have on the fair market value of~~
62 ~~the real property.]~~

63 ~~[(3) (a) Except as provided in Subsection (3)(b), to have a county assessor take into~~
64 ~~account a low-income housing covenant under Subsection (2), the owner of a property subject~~
65 ~~to a low-income housing covenant shall, by April 30 of each year, provide to the county~~
66 ~~assessor:]~~

67 (b) (i) Subject to Subsection (2)(b)(ii), Subsection (2)(a) applies regardless of whether
68 the property is complete or under construction.

69 (ii) For a property under construction, when determining fair market value under this
70 section, the county assessor shall take into account the impact of the low-income housing
71 covenant on the fair market value of the property.

72 (3) (a) On or before April 30 of each year, an owner of real property subject to a
73 low-income housing covenant shall provide to the county assessor the following on a form
74 approved by the commission:

75 (i) a signed statement from the property owner that the project continues to meet the
76 requirements of the low-income housing covenant;

77 (ii) a certified financial operating statement for the property for the prior year;

78 (iii) rent rolls for the property for the prior year; ~~[and]~~

79 (iv) federal and commercial financing terms and agreements for the property[-]; and

80 (v) for a property under construction, actual construction costs incurred as of the lien
81 date.

82 (b) If the April 30 described in Subsection (3)(a) ~~[falls within the first 12 months after~~

83 ~~a low-income housing operation begins on the property, a~~ occurs before occupancy of the
84 property or before the end of the lease up period, the property owner shall provide estimates of
85 the information required by Subsections (3)(a)(ii) ~~[through (iv)]~~ and (iii).

86 (c) On or before March 31 each year, the county assessor shall send a copy of the form
87 described in Subsection (3)(a) to each owner of real property subject to a low-income housing
88 covenant located in the county.

89 (4) If ~~the~~ an owner of ~~a~~ real property subject to a low-income housing covenant fails
90 to meet the requirements of Subsection (3):

91 (a) the assessor shall:

92 (i) make a record of the failure to meet the requirements of Subsection (3); and

93 (ii) make an estimate of the fair market value of the property in accordance with
94 Subsection (2) based on information available to the assessor; and

95 (b) subject to Subsection (5), the owner shall pay a penalty equal to the greater of:

96 (i) \$250; or

97 (ii) 5% of the tax due on the property for that year.

98 (5) (a) Only one penalty per year may be imposed per housing project subject to a
99 low-income housing covenant.

100 (b) Upon making a record of the action, and upon reasonable cause shown, an assessor
101 may waive, reduce, or compromise the penalty imposed under Subsection (4)(b).

102 (c) An owner is not subject to a penalty under Subsection (4) for a year in which the
103 county assessor failed to timely comply with Subsection (3)(c).

104 **Section 2. Effective date.**

105 This bill takes effect on January 1, 2023.