

SB0081S03 compared with SB0081S02

~~text~~ shows text that was in SB0081S02 but was deleted in SB0081S03.

text shows text that was not in SB0081S02 but was inserted into SB0081S03.

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Senator Jani Iwamoto proposes the following substitute bill:

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:

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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:

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

(1) As used in this section:

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

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

(i) between:

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

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

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

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

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

(i) is used:

(A) for residential purposes; and

(B) as a primary residence; and

(ii) is rental property.

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

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

(ii) in using the income capitalization approach:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(b) If the April 30 described in Subsection (3)(a) [~~falls within the first 12 months after a low-income housing operation begins on the property, a~~] occurs before occupancy of the property or before the end of the lease up period, the property owner shall provide estimates of the information required by Subsections (3)(a)(ii) [~~through (iv)~~] and (iii).

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

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

(a) the assessor shall:

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

(ii) make an estimate of the fair market value of the property in accordance with

Subsection (2) based on information available to the assessor; and

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

(i) \$250; or

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

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

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

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

Section 2. **Effective date.**

This bill takes effect on January 1, 2023.