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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 22, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Property Tax - Valuation - ~~Affordable Housing~~ Low Income Housing Tax**  
3 **Credit Projects**

4 FOR the purpose of creating a certain new subclass of real property for property tax  
5 assessment purposes; requiring a supervisor valuing certain commercial real  
6 property ~~financed by a federal or state affordable housing program~~ to consider  
7 the impact of certain rent restrictions, certain affordability requirements, or  
8 certain related restrictions required by ~~certain federal or state programs~~ certain  
9 provisions of federal law and certain federal, state, or local programs;  
10 prohibiting a supervisor ~~from~~ valuing certain commercial real property ~~financed~~  
11 ~~by a federal or state affordable housing program~~ from considering certain  
12 federal income tax credits as income attributable to certain commercial real  
13 property ~~and from considering certain replacement cost of certain commercial~~  
14 ~~real property~~; authorizing a supervisor to consider the replacement cost of  
15 certain commercial real property under certain circumstances; and generally  
16 relating to the valuation of certain commercial real property ~~used as affordable~~  
17 ~~housing developed under a certain section of the Internal Revenue Code.~~

18 BY repealing and reenacting, without amendments,  
19 Article - Tax - Property  
20 Section 8-101(a)  
21 Annotated Code of Maryland  
22 (2001 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,

1 Article - Tax - Property  
2 Section 8-101(b) and 8-105  
3 Annotated Code of Maryland  
4 (2001 Replacement Volume and 2004 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Tax - Property**

8 8-101.

9 (a) For assessment purposes, property shall be divided into classes and  
10 subclasses.

11 (b) Real property is a class of property and is divided into the following  
12 subclasses:

13 (1) land that is actively devoted to farm or agricultural use, assessed  
14 under § 8-209 of this title;

15 (2) marshland, assessed under § 8-210 of this title;

16 (3) woodland, assessed under § 8-211 of this title;

17 (4) land of a country club or golf course, assessed under §§ 8-212  
18 through 8-217 of this title;

19 (5) land that is used for a planned development, assessed under §§ 8-220  
20 through 8-225 of this title;

21 (6) rezoned real property that is used for residential purposes, assessed  
22 under §§ 8-226 through 8-228 of this title;

23 (7) operating real property of a railroad;

24 (8) operating real property of a public utility; [and]

25 (9) PROPERTY VALUED UNDER § 8-105(A)(3) OF THIS SUBTITLE; AND

26 (10) all other real property that is directed by this article to be assessed.

27 8-105.

28 (a) (1) Except for land that is actively devoted to farm or agricultural use,  
29 the supervisor:

30 (i) may value income producing real property by using the  
31 capitalization of income method or any other appropriate method of valuing the real  
32 property; and

1 (ii) shall consider an income method in valuing income producing  
2 commercial real property.

3 (2) For income producing single-family residential real property, the  
4 supervisor may value the property by using the same methods that are used for  
5 single-family residential real property that is owner-occupied.

6 (3) IN DETERMINING THE VALUE OF COMMERCIAL REAL PROPERTY  
7 ~~FINANCED BY A FEDERAL OR STATE AFFORDABLE HOUSING PROGRAM DEVELOPED~~  
8 UNDER § 42 OF THE INTERNAL REVENUE CODE, THE SUPERVISOR:

9 (I) SHALL CONSIDER THE IMPACT OF APPLICABLE RENT  
10 RESTRICTIONS, AFFORDABILITY REQUIREMENTS, OR ANY OTHER RELATED  
11 RESTRICTIONS REQUIRED BY ~~THE FEDERAL OR STATE PROGRAMS; AND § 42 OF THE~~  
12 INTERNAL REVENUE CODE AND ANY OTHER FEDERAL, STATE, OR LOCAL PROGRAMS;

13 (II) ~~MAY NOT CONSIDER:~~

14 1. ~~INCOME TAX CREDITS UNDER § 42 OF THE INTERNAL~~  
15 ~~REVENUE CODE AS INCOME ATTRIBUTABLE TO THE REAL PROPERTY; OR~~

16 2. ~~THE REPLACEMENT COST OF THE REAL PROPERTY.~~

17 (II) MAY NOT CONSIDER INCOME TAX CREDITS UNDER § 42 OF THE  
18 INTERNAL REVENUE CODE AS INCOME ATTRIBUTABLE TO THE REAL PROPERTY; AND

19 (III) MAY CONSIDER THE REPLACEMENT COST APPROACH ONLY IF  
20 THE VALUE PRODUCED BY THE REPLACEMENT COST APPROACH IS LESS THAN THE  
21 VALUE PRODUCED BY THE INCOME APPROACH FOR THE PROPERTY AND IT IS  
22 REFLECTIVE OF THE VALUE OF THE REAL PROPERTY.

23 (b) (1) The supervisor shall notify each owner of income producing real  
24 property to submit, under oath, on or before May 15 of each year, a current:

25 (i) income and expense statement for the real property, on the form  
26 that the Department requires; or

27 (ii) annual income and expense statement in another form that is  
28 acceptable to the Department.

29 (2) For income producing real property that has a value in excess of  
30 \$5,000,000 as listed on the assessment roll, the supervisor shall designate properties  
31 for which the owner must provide income and expense information or be subject to a  
32 penalty under subsection (e) of this section for failure to provide the information.

33 (3) For income producing real property that is designated under  
34 paragraph (2) of this subsection, the supervisor shall:

35 (i) include in the notice a statement that a penalty may be  
36 assessed under subsection (e) of this section if the owner of real property valued at

1 over \$5,000,000 fails to file the income and expense information required under this  
2 subsection; and

3 (ii) send the notice by first class certified mail to the owner as  
4 determined from the assessment rolls or the owner's registered agent.

5 (c) (1) For income producing real property that has a value in excess of  
6 \$5,000,000 as listed on the assessment roll that is designated under subsection (b)(2)  
7 of this section, if the income and expense statement required under subsection (b) of  
8 this section is not received by May 15, the Department shall send a letter by first  
9 class certified mail to the owner notifying the owner that the statement has not been  
10 received and that if the statement is still not received by June 15, the penalty  
11 specified in subsection (e) of this section will be assessed.

12 (2) For property other than the property described in paragraph (1) of  
13 this subsection, upon request, an extension of up to 30 days may be granted by the  
14 supervisor for the filing required by subsection (b) of this section.

15 (d) The supervisor is not required to accept the expenses or depreciation  
16 claimed by the owner and may use other methods to determine these amounts.

17 (e) (1) This subsection applies only to income producing real property that  
18 has a value in excess of \$5,000,000 as listed on the assessment roll that is designated  
19 under subsection (b)(2) of this section.

20 (2) If an owner of income producing real property fails to submit income  
21 and expense information as required by subsection (b) of this section, by June 15, the  
22 supervisor shall assess on the owner of the real property a penalty of \$100 per day up  
23 to a maximum equal to 0.1% of the value of the property listed on the assessment roll.

24 (3) The supervisor shall notify the collector of the county in which the  
25 property is located of assessment of a penalty.

26 (4) The collector shall collect the penalty imposed under this subsection  
27 and shall remit the penalty to the State Comptroller.

28 (5) The penalty imposed under this subsection may be waived by the  
29 supervisor for good cause.

30 (6) If the penalty imposed under this subsection is a direct  
31 "pass-through" to a lessee, the lessee shall have a right to recover that amount from  
32 the owner.

33 (f) When requested by the supervisor for valuation purposes, an officer or  
34 employee of any county or municipal corporation may provide to the supervisor the  
35 amount of income or any particulars disclosed in any tax return filed with the county  
36 or municipal corporation.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
38 July 1, 2005.

