Assigned to FIN AS PASSED BY HOUSE

ARIZONA STATE SENATE

Fifty-Fifth Legislature, First Regular Session

<u>**AMENDED**</u>

FACT SHEET FOR S.B. 1076

<u>low-income multifamily housing; valuation</u>

<u>Purpose</u>

Requires a county assessor to value qualifying low-income multifamily residential rental property using an income-based method. Classifies, as class 4 property, low-income multifamily residential rental properties that are valued using the statutory income-based method.

<u>Background</u>

The Low-Income Housing Tax Credit (LIHTC) Program was enacted by the U.S. Congress in 1986 to promote the development of affordable rental housing for low-income individuals and families. A low-income housing tax credit is a dollar-for-dollar credit against the federal income tax liability of the owner each year over a period of 10 years. The amount of the annual credit is based on the amount invested in the affordable housing.

The Internal Revenue Service allocates housing tax credits to designated state agencies which then award the credits to developers of qualified projects. The Arizona Department of Housing (ADOH) allocates available tax credits each year in Arizona. After reviewing an application, ADOH may assess a reasonable fee on an applicant in connection with processing the applications and monitoring compliance with the LIHTC Program. ADOH may not interfere with or attempt to override a local jurisdiction's planning, zoning or land use regulations (A.R.S. § 35-728).

Class 4 property includes real and personal property and improvements to property that are used as non-primary residential property and leased or rented residential property (A.R.S. § 42-12004).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

<u>Provisions</u>

1. Classifies, as class 4 property, low-income multifamily residential rental properties that are valued using a statutory income-based method.

2. Defines *low-income multifamily residential rental property* as multifamily residential property to which all of the following apply:
   a) the owner received an allocation of federal income tax credits through the LIHTC Program;
   b) the property remains both income and rent-restricted consistent with the LIHTC Program and the provisions of the declaration of affirmative land use restrictive covenants agreement recorded on the property, if recorded;
   c) the restrictions apply to all units on the property, except employee units; and
   d) a federal, state or tribal court has not entered a judgement or order based on a finding that an act or omission of an owner or operator of the property constitutes a breach or violation of:
      i. the declaration of affirmative land use restrictive covenants agreement recorded on the property; or
      ii. restrictions under the LIHTC Program imposed on the property but not contained within an affirmative land use restrictive covenants agreement.

3. Requires, as a condition of low-income multifamily residential rental property valuation, an owner or operator to provide written documentation to the county assessor confirming that the property has been placed in service as a low-income multifamily residential rental property consistent with the federal LIHTC Program and specifies which forms satisfy the documentation requirement.

4. Allows an owner of a low-income multifamily residential rental property (owner) to elect a statutory income method for valuing the low-income multifamily residential rental property.

5. Requires the county assessor, on timely election by an owner, to value low-income multifamily residential rental property based on the income method to value using the actual annual income and actual annual expenses of the property and using the determined capitalization rate.

6. Requires the county assessor to determine the capitalization rate based on the prevailing capitalization rate for a conventional multifamily property in the same geographic area adjusted for differences between the two types of properties, including the:
   a) additional risk that the recorded affirmative land use restrictive covenants agreement places on the net operating income from the property;
   b) restriction to the use of the property for affordable housing;
   c) time period that the income and use restrictions remain in effect on the property; and
   d) illiquidity caused by the reduced pool of qualified potential buyers.

7. Requires the county assessor, after the capitalization rate is determined, to add the capitalization rate to the effective tax rate before calculating the full cash value.

8. Allows an owner to elect to have the valuation determined by the income method to value by submitting the three most current annual audited financial statements required by ADOH to the county assessor before September 1 of the year immediately preceding the valuation year.

9. Allows an owner, if they do not yet have three annual audited financial statements because the property is new to the LIHTC Program, to submit the available audited financial statements and the pro forma income and expense data that was provided to ADOH at the time the LIHTC Program application was submitted, to the county assessor and requires the county assessor to use the submitted data for valuation purposes.

10. Requires a property that previously qualified for the income method to value to no longer be valued using the income method to value if the property has been transitioned to current use as a conventional multifamily property in compliance with federal law.

11. Specifies that all income and expense data submitted by a taxpayer to the county assessor is confidential.

12. Allows an owner or operator that opts into the income valuation method to appeal the value of the property.

13. Allows an owner or operator, on appeal, to submit more recent income and expense data from the year preceding January 1 of the valuation year to be used in calculating the value of the property by the income valuation method.

14. Allows an owner or operator that does not opt into the income valuation method to appeal the value of the property using the income valuation method.

15. Requires the Arizona Department of Revenue to prescribe a form for an owner to elect to value the property using the income-based valuation method.

16. Specifies that low-income multifamily residential rental property that is subject to valuation by the county assessor consists of land and buildings.

17. Defines terms.

18. Makes technical changes.

19. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

1. Modifies the definitions of *low-income multifamily residential rental property* and *actual annual expenses.*

2. Removes personal property from the low-income multifamily residential rental property that is subject to valuation by the county assessor.

3. Makes a technical change.

Senate Action				House Action			
FIN	1/27/21	DP	7-2-1	WM	3/3/21	DPA	9-1-0-0
3rd Read	2/4/21		27-2-1	3rd Read	4/29/21		46-14-0

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MG/gs