

HOUSE BILL 2036

By Faison

AN ACT to amend Tennessee Code Annotated, Title 13
and Title 67, relative to affordable rental housing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, Part 6, is amended by adding the following language as a new section:

(a) As used in this section, unless the context otherwise requires:

(1) "FmHA 515 property" means low-income housing property financed or refinanced by a loan made, insured, or guaranteed by a branch, department, or agency of the United States government under § 515 of the Housing Act of 1949 (42 U.S.C. § 1485), the rural rental housing program;

(2) "LIHTC property" means low-income housing property restricted under government regulations pursuant to § 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42), the low-income housing tax credit program;

(3) "Low-income housing property" means property participating in federal programs to incentivize private housing investment in return for rent concessions to needy tenants. "Low-income housing property" includes LIHTC property and FmHA 515 property;

(4) "Owner" means the person holding title to the property;

(5) "Present use value" means the value of the property and improvements to the property based upon its current use as low-income housing property without taking into account or assigning any value to the subsidies associated with the property;

(6) "Rollback taxes" means the amount of back tax differential payable under subsection (i); and

(7) "Subsidies" means:

(A) Low-income housing tax credits authorized pursuant to § 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42), the low-income housing tax credit program; and

(B) Loans made, insured, or guaranteed by a branch, department, or agency of the United States government under § 515 of the Housing Act of 1949 (42 U.S.C. § 1485), the rural rental housing program.

(b)

(1) Any owner of property may apply for its classification as low-income housing property on any assessment roll of any county by filing an application for the classification with the property assessor of such county by April 1 of the first year for which the classification is sought. In a year in which a general reappraisal of property is carried out in the county, an owner shall apply for the classification by April 1, or before the final yearly adjournment of the county board of equalization.

(2) The assessor shall determine whether the property is low-income housing property, and if such determination is made, then the assessor shall classify and designate the property as low-income housing property on the county tax roll.

(3) With respect to LIHTC property, the assessor's determination shall be based upon the existence of a carryover allocation agreement or its equivalent between the owner of the property and the Tennessee housing development agency or its successor. With respect to FmHA 515 property, the assessor's determination shall be based upon the existence of an obligation of funding or its

equivalent between the owner and the branch, department, or agency of the United States government under the rural rental housing program.

(c) The assessor shall discontinue the classification of property as low-income housing property unless the owner certifies, upon request of the assessor, that the property continues to qualify as low-income housing property.

(d) The assessor shall request the certification under subsection (c) in the year of completion of every general reappraisal of property in the county, but in no event less frequently than every six (6) years. The certification need not be recorded, but shall be maintained with the assessor's records for the property. The certification shall be provided by the buyer upon any sale of property previously approved for classification, or the property shall be deemed to be disqualified by the sale. The certification due during reappraisal shall be filed with the assessor by the due date for applications. The certification by new purchasers shall be filed with the assessor by the due date for applications in the year following the purchase.

(e) Any person aggrieved by the denial of any application for the classification of property as low-income housing property has the same rights and remedies for appeal and relief as are provided in general law for taxpayers claiming to be aggrieved by the actions of tax assessors or boards of equalization.

(f) A parcel of property classified by the property assessor as low-income housing property shall be valued in accordance with its present use value. Present use value shall be determined by reference to the gross income of the property from the property's restricted rents. Present use value shall not take into account or assign any value to the subsidies associated with the property.

(g)

(1) After a parcel of property has been classified by the property assessor as low-income housing property, the property assessor shall record it on a separate list for such classified property, and the assessor shall record the application for the classification of the property with the register of deeds. Any fees that may be required shall be paid by the property owner.

(2) After the classification of property as low-income housing property, the assessor shall appraise the property and compute the property assessment each year based upon both:

(A) The value of the property taking into account and assigning value to the subsidies associated with the property; and

(B) The present use value of the property as low-income housing property.

(3) The taxes computed under subdivision (g)(2) shall be used to ascertain the rollback taxes due on the property if the property ceases to qualify in the future. If the property maintains its classification as low-income housing property, then taxes shall be assessed and paid only on the basis of the present use value as low-income housing property.

(h) When a parcel of land has been classified by the property assessor as low-income housing property, and subsequently ceases to qualify as low-income housing property, then its assessment shall be based upon the value of the property taking into account and assigning value to the subsidies associated with the property. It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property which might affect its eligibility for classification under this section.

(i)

(1) The appropriate assessor shall compute the amount of taxes saved by the difference between subdivision (g)(2)(A) and (g)(2)(B) for each of the preceding three (3) years, and the assessor shall notify the trustee that such amount is payable, if:

(A) The property ceases to qualify as low-income housing property, except as a result of the fulfillment and expiration of the rental rate restrictions in the agreement pursuant to § 515 of the Housing Act of 1949 (42 U.S.C. § 1485), the rural rental housing program; or

(B) The owner of such land requests in writing that the classification as low-income housing property be withdrawn.

(2) Such amount shall be the rollback taxes to be levied and collected on the first tax roll prepared after such taxes become payable under subdivision (i)(1).

(3)

(A) If, under subdivision (i)(1), only a portion of a parcel is subject to rollback taxes, the tax assessor shall apportion the assessment of such parcel on the first tax roll prepared after such taxes become payable, and enter the apportioned amount attributable to such portion as a separately assessed parcel on the tax roll.

(B) Such apportionment shall be made for each of the years to which the rollback taxes apply.

(j)

(1) In the event that any property classified as low-income housing property or any portion thereof is converted to a use other than those stipulated herein by virtue of a taking by eminent domain or other involuntary proceeding,

except a tax sale, such property or any portion thereof involuntarily converted to such other use shall not be subject to rollback taxes by the landowner, and the agency or body doing the taking shall be liable for the rollback taxes.

(2) In the event the property involuntarily converted to such other use constitutes only a portion of a parcel so classified on the assessment rolls, the assessor shall apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll.

(3) In the event that any land classified under this section as low-income housing property or any portion thereof is acquired by a bank, as defined in § 45-2-107, by an association, as defined in § 45-3-104, or by a holder of a deed of trust or mortgage in satisfaction or partial satisfaction of a debt previously contracted in good faith, such property or any portion thereof so acquired shall not be subject to rollback taxes assessed against or payable by the bank or association, and shall be subject to rollback taxes only if the property is used for a non-low-income house purpose or after such land is sold by the bank, association, or a holder of a deed of trust or mortgage and then only as provided in subsection (i).

(k) If the sale of low-income housing property will result in such property being disqualified as low-income housing property due to conversion to an ineligible use or otherwise, the seller shall be liable for rollback taxes unless otherwise provided by written contract. If the buyer declares in writing at the time of sale an intention to continue the low-income housing property classification but fails to file any form necessary to continue the classification within ninety (90) days from the sale date, the rollback taxes shall become solely the responsibility of the buyer.

SECTION 2. This act shall take effect July 1, 2016, the public welfare requiring it.