

**Senate Bill No. 268**

(By Senators Jenkins and M. Hall)

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[Introduced January 8, 2014; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

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**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §11-3-1c, relating to  
providing the methods of appraising certain affordable,  
multifamily rental housing property for ad valorem property  
tax purposes; setting forth what the assessor is to consider;  
providing for confidentiality of information provided to the  
assessor; providing for treatment of federal or state tax  
credits; and granting rule-making authority.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new section, designated §11-3-1c, to read as  
follows:

**ARTICLE 3. ASSESSMENTS GENERALLY.**

**§11-3-1c. Method of appraising affordable multifamily rental**

1                   **housing property.**

2           (a) In determining the true and actual value of improved real  
3 property containing four or more residential units operated, in  
4 whole or in part, as affordable rental housing in accordance with  
5 the provisions of Section 42 Title 26 of the United States Code and  
6 42 U.S.C. §§221(d) (3), 236, 241(f) or 983, for ad valorem property  
7 tax purposes, the assessor shall use the cost approach or the  
8 income approach.

9           (b) In using the income approach, the assessor shall consider:

10           (1) The verified or audited actual rents received;

11           (2) The verified or audited actual expenses incurred in the  
12 operation of the property, excluding mortgage interest and  
13 depreciation; and

14           (3) A capitalization rate determined from recent actual sales  
15 of commercial property used for residential purposes in the same  
16 geographical area as the property to be valued and the net incomes  
17 actually realized from those properties over the next preceding  
18 three years.

19           (c) In using the cost approach, the assessor shall:

20           (1) Determine the amount of economic obsolescence resulting  
21 from the differences between the actual rents received and the  
22 unrestricted rents of similar units not subject to such  
23 restrictions in the same geographic area; and

24           (2) Consider the impact of rent restrictions on transfer of

1 title and other restraints on alienation of the property.

2 (d) The information provided to an assessor under subsections  
3 (b) and (c) of this section is confidential pursuant to section  
4 twenty three, article one-a, chapter eleven of this code.

5 (e) Federal or state income tax credits allowed with respect  
6 to the property may not be treated as contributing value to the  
7 property or as income attributable to it.

8 (f) For real property which only a portion of the individual  
9 housing units are operated as affordable rental housing, as defined  
10 in Section 42 of the Internal Revenue Code of 1986, as amended,  
11 only that portion of the property is subject to the requirements of  
12 this section.

13 (g) In addition to the powers and duties of the Tax  
14 Commissioner in other provisions of this article and this code, the  
15 Tax Commissioner has the power and duty to:

16 (1) Propose rules for legislative approval in accordance with  
17 the provisions of article three, chapter twenty-nine-a of this code  
18 establishing a method to determine the appraised value of real  
19 property operated as affordable rental housing consistent with the  
20 provisions of this section;

21 (2) Prescribe forms for annual reporting of income and  
22 expenses to be used by the assessors for valuing such affordable  
23 rental housing; and

24 (3) Propose rules for legislative approval in accordance with

1 the provisions of article three, chapter twenty-nine-a of this code  
2 establishing a method to determine the capitalization rate to be  
3 used in the income approach as defined in this section if  
4 insufficient data as to actual sales prices and net incomes is  
5 available.

NOTE: The purpose of this bill is to provide for the method of appraising certain affordable, multifamily rental property for property tax assessment purposes. The bill also grants rule-making authority.

This section is new; therefore, strike-throughs and underscoring have been omitted.