Limited Equity Cooperative Property Tax Assistance Amendment Act of 2021, Bill 24-431

Committee on Housing and Executive Administration

The Honorable Anita Bonds, Chairperson

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Thank you for the opportunity to comment on Bill 24-431, the "Limited Equity Cooperative Property Tax Assistance Amendment Act of 2021," (the "Bill")

In general, the Bill would expand the types of entities that can qualify as limited equity cooperatives and would expand the real property tax exemption available to such cooperatives.

The Bill would expand the definition of "limited equity cooperative" to include entities that limit the household income of the buyer for the purpose keeping the housing affordable for potential cooperative members with low to moderate income, but the Bill does not provide an affordability limit for the resale price or provide detailed guidelines for the level of household income. The Office of Tax and Revenue (OTR) proposes that the Bill provides a clear upper limit for resale or limit the household income of the buyer to facilitate administration and prevent possible abuses.

The Bill would also allow an entity to qualify as a limited equity cooperative if its articles of organization limit resale prices or income levels. Normally, these limits are imposed by a third party, such as a government or non-profit organization. If no third-party is monitoring compliance with these limits, OTR may be obliged to conduct compliance reviews to ensure that the cooperative is eligible to receive tax benefits. This could impose an additional administrative burden on the agency. Limited equity cooperative status is also relevant for other tax benefits, such as the assessment of real property for taxation, recordation tax on deeds to economic interests in the cooperative, and the workforce housing tax exemption. The potential effect on these other tax provisions should be noted when considering the expansion of the definition of limited equity cooperative.

The Bill would also extend the real property tax exemption for limited equity cooperatives beyond the five-year period currently allowed, provided the requirements for member income levels and pass-through of the tax benefit to members are met. The long title refers to 80 percent of Median Family Income. However, the language in the bill refers to 80 percent of the lower income guidelines, which could be construed as 80 percent of 80 percent. Additionally, OTR suggests that the Bill state when the cooperative should annually qualify within the newly published U.S. Department of Housing and Urban Development guidelines, such as within one month of publication.

The Bill further provides that a cooperative is to certify eligibility for the exemption every five years; OTR recommends that this certification be made annually to permit OTR to more effectively monitor compliance and to remove the benefit in a timely manner if a cooperative loses eligibility.

Again, thank you for the opportunity to comment. The Office of Tax and Revenue is available to answer questions you may have about these comments.