

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 14

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-205A, IDAHO CODE, TO REVISE THE CALCULATION OF NET OPERATING INCOME OF LOW-INCOME HOUSING FOR PROPERTY TAXATION PURPOSES AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-205A, Idaho Code, be, and the same is hereby amended to read as follows:

63-205A. ASSESSMENT -- MARKET VALUE FOR ASSESSMENT PURPOSES OF SECTION 42 LOW-INCOME PROPERTIES. (1) Section 42 of the Internal Revenue Code and related regulations govern the housing tax credit established under the 1986 tax reform act, as amended, and provides an incentive for developers to provide safe and sanitary housing for individuals and families earning no more than sixty percent (60%) of the area median income as determined by the U.S. department of housing and urban development (HUD), which income and rent restrictions remain in place as provided for in the tax credit regulatory agreement between the owner and the Idaho housing and finance association.

(2) The market value for assessment purposes of section 42 low-income properties shall be determined by the county assessor using the following criteria:

(a) The sales comparison approach using similar rent restricted properties, the cost approach, and the income approach, shall be considered in valuing section 42 low-income properties. The cost approach shall include an economic obsolescence factor associated with the income and rent restrictions provided with each development's tax credit regulatory agreement with the Idaho housing and finance association. The three (3) approaches will be reconciled into a single property value.

(b) Net operating income to be capitalized in the income approach shall not include the amount of housing tax credits. However, the amount of such credits shall be added to the capitalized net operating income using one (1) of the following procedures:

(i) Except as provided in subsection (2) (b) (ii), of this section, for properties for which housing tax credits have been received prior to January 1, 2009, and for properties subject to new regulatory agreements on or after January 1, 2009, the total dollar amount of such credits shall be divided by the total number of years in the regulatory agreement;

(ii) For properties for which housing tax credits originally were received, but which are no longer receiving such credits as of January 1, 2009, no amount shall be added; or

(iii) For properties previously receiving housing tax credits, but subject to a new regulatory agreement on or after January 1,

1 2009, the total amount of housing tax credits pursuant to the new
2 agreement shall be divided by the number of years in the new regu-
3 latory agreement. This amount shall supersede and be substituted
4 for any amount previously calculated.

5 Net operating income shall be capitalized into value using a market de-
6 rived capitalization rate. To determine tThe net operating income, ef-
7 fective gross income shall be reduced by costs customary to section 42
8 operations, including normalized operating expenses plus all compli-
9 ance, audit, asset management and other fees, but not general partner
10 fees, as well as those costs set forth in each development's tax credit
11 regulatory agreement with the Idaho housing and finance association.

12 (c) The Idaho state tax commission shall gather market data to deter-
13 mine market derived capitalization rates for section 42 low-income
14 properties from section 42 property sales. Determination of the mar-
15 ket derived capitalization rates for section 42 low-income property
16 sales shall include both actual net operating income and calculated tax
17 credit income consistent with the formula in subsection (2) (b) of this
18 section. The Idaho state tax commission shall then make the information
19 available to each county assessor. If fewer than three (3) comparable
20 sales of section 42 low-income properties are available, then a capi-
21 talization rate derived from properties with no federal project based
22 assistance shall be used. As used in this section, "comparable" shall
23 mean section 42 low-income properties with no federal project based
24 assistance. A sale of a section 42 low-income property shall not be con-
25 sidered as a comparable sale if the buyer of that property receives a new
26 allocation of section 42 tax credits from the Idaho housing and finance
27 association.

28 (d) Beginning in 2010, the owners of properties described in this sec-
29 tion shall provide to the Idaho state tax commission no later than April
30 1 of each year, such financial statements from the prior year as are cus-
31 tomarily prepared in the ownership and operation of any section 42 prop-
32 erty. For 2009, said financial statements shall be provided no later
33 than May 1. In addition, no later than May 1 of 2009 or, for new de-
34 velopments with housing tax credits or new allocations, by April 1 of
35 the first year of any tax credit regulatory agreement, the Idaho hous-
36 ing and finance association shall provide to the Idaho state tax com-
37 mission statements ascertaining the dollar amounts of housing tax cred-
38 its that have been allocated to each section 42 property, the year such
39 credits were first paid, and the total number of years in the regula-
40 tory agreement. The Idaho state tax commission shall then make the fi-
41 nancial statements and tax credit information required under this sec-
42 tion available to each county assessor. If such information is not made
43 available to the Idaho state tax commission and county assessors, each
44 county shall substitute market rent apartment derived expenses and in-
45 come for section 42 low-income properties.

46 (e) The Idaho state tax commission shall have the authority to promul-
47 gate rules dealing with the enactment and enforcement of this section.

48 (f) If the use of the income approach as described in subsection (2) (b)
49 of this section results in an assessed value lower than would be ob-

1 tained if the income approach in subsection (2) (b) of this section were
2 not used, the difference will be exempt.