2011 HOUSE FINANCE AND TAXATION

HB 1394

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1394
January 25, 2011
Job # 13344

☐ Conference Committee

Committee Clerk Signature Marilyn Kreinzle

Explanation or reason for introduction of bill/resolution:

A Bill relating to allocation by landlords to renters of property tax relief benefits to the rental property; and to provide an effective date.

Minutes: #1 "attached testimony."

Chairman Belter: Call the hearing for HB 1394.

Representative Steven L. Zaiser: Sponsored this bill. I would like to start out with that 30% of the North Dakota residence lives in properties owned by someone else. Granted of the 30%, some of these residences live in institutionalized facilities like jails, nursing homes and so forth. The others live in duplexes, triplexes or apartments. This bill that I have in front of you is for fourplexes or larger rental properties. What it basically does is a pass through of the property taxes relief obtained by the owner of the property to the tenants. Over the last several years the state has done a fine job in helping out many folks trying to reduce property taxes but the one segment that has not been helped is the tenants of larger rental units. I do not have census to back this up, if someone would do some kind of income analysis of people living in rental units, I am sure it is substantially lower or less than those living in single family dwellings. I have put this bill together to be simple as possible. Now I see that there are some holes in the bill as terms of accountability and enforcement. I would like to submit the bill with a purposed amendment attached. The State will not be involved. This is basically between the lease and leaser.

Representative Dwight Wrangham: Why did you go to form where separate units instead of a duplex?

Representative Steven L. Zaiser: Initially I had all rental properties including a single family home. My preference would be for all properties, even legislators during session would be eligible. I am unsure and probably Mr. Walstad could answer these questions.

Vice Chairman Craig Headland: What if the landlord has already reduced his rent and included his property tax in that direction? Does this bill say he has to increase the rent and get a check back?

Representative Steven L. Zaiser: This bill simply says he has to send the check back to the renter. The Landlords would have clear knowledge about this bill. I am not familiar with anyone that would decrease their rents. If they did I guess that would be the case because it would be the law of the state.

Representative Dave Weiler: So if I live in an eightplex I'm going to receive a check from my landlord on the amount on his tax break?

Representative Steven L. Zaiser: That is the way I understand it.

Representative Dave Weiler: Would I have to claim that as income?

Representative Steven L. Zaiser: This would be established as a business expense.

Representative Dave Weiler: Is there a danger in passing this bill and then the landlords jack the rent up $500? My concern is that we cannot guarantee that the property tax plan relief will be continued. The landlords have assumed a lot of risk in buying an apartment building and need to make their ends meet too.

Representative Glen Froseth: Would this also included hotels and motels? I think this would be a accounting nightmare. Would this include the representatives,.

Representative Steven L. Zaiser: It is my understanding that hotels and motels would not be included in this legislation.

Vice Chairman Craig Headland: If an owner of a fourplex rents only one apartment, would he get all of the property tax relief or part of it? I see nothing in the bill clarifying or stating how this would work.

Representative Steven L. Zaiser: I did try to keep this bill as simple as possible and unsure how it would work and would have to refer that question to Mr. Walstad.

Rocky Gordon, Lobbyist for ND Apartments Association: Opposition. Please refer to attached testimony #1.

Representative Steven L. Zaiser: I think you gave a good description of many of your expenses and costs. But you didn't talk about how many rent and how much is paid? Often times the people who rent from us are the poorest amongst us. I guess you were willing to give us the costs but if you were willing to give us the revenue to balance this off, it would be appreciated.

Rocky Gordon: I guess I thought I already did. The rent on the first apartment is $650 and the other is $450 a month.

Representative Steven L. Zaiser: What are your vacancy rates?

Rocky Gordon: Our overall vacancy rate is 2 to 3% in the Bismarck area market today.

Representative Lonny B. Winrich: You mentioned the roommate situation. I have been under the impression that one person is the leasee. They work out an arrangement themselves.

Rocky Gordon: That is not how our Company does it. We believe that each resident needs to be signed to the lease so that they are agreeing to the terms. Roommates do split the rent and we do accept checks from more than one person.

Representative Dave Weiler: Curious and alarmed at the cost of insurance from 2008 to 2010, it more than doubled. What was the cause of that?

Rocky Gordon: It was 2 things. We had a very favorable insurance company and then had a couple of claims and that company no longer would insure us.

Claus Lembke: Opposition. I represent the North Dakota of Realtors. We do believe the market sets the prices and it should not be artificially changed.

Representative Scot Kelsh: I have a question for Marcy Dickerson of the Tax Department. As I understand it, commercial property is appraised when it is sold based on its income generating capability as part of that formula. When it is evaluated for tax appraised purposes it based the simple formula of the value time 10%. Is that correct?

Marcy Dickerson, ND Tax Department: Commercial property can be valued in three different ways: Cost less depreciation and obsolescence.

You can look at the income approach base on the income the property the income the property is capable of producing.

Sales comparison approaches

The way we get to the 10% is the true and full value of any property is true and full value multiplied by 50% which is call assessed value, which is a statutory calculation. For Commercial property 10% of the assessed value is taxable value. But this is a mechanical calculation to get down to the number that the mill rate is applied to.

Representative Scot Kelsh: How is the majority of rental property valued?

Marcy Dickerson: Most rental property qualifies as commercial property. Any property unit that has 4 or more living units is considered commercial property. Any property that has 3 or less is considered residential property. The difference is that for the residential is 9% of the assessed value.

Representative Scot Kelsh: I would like to know what method of the 3 is most commonly used when it comes to rental property.

Marcy Dickerson: I can't say for sure. I think in the larger communities there are a lot of sales, the sales comparison approach is used because they have that information. In smaller communities where they have very few sales, that information is not probably available. Next to sales I am sure the income approach is looked at, but in most cases they do look at the sales.

Chairman Belter: Asked for further testimony. Seeing none closed the hearing on HB 1394

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1394
January 25, 2011
Job # 13398

☐ Conference Committee

Committee Clerk Signature Marilyn Kreingle

Minutes *No "Attachments"*

Chairman Wesley R. Belter: What are the committee's wishes with HB 1394?

Representative Bette Grande: Made a motion for do not pass.

Vice Chairman Craig Headland: Seconded the motion.

Representative Steven L. Zaiser: All I would ask is that the bill has the amendment put included, so that the bill does look in the right form.

Representative Bette Grande: Moved to let the bill be amended.

Representative Steven L. Zaiser: I make a motion we have the amendments included.

Representative Weiler: Seconded the motion

VOICE VOTE: 12 AYE 0 NAY 2 ABSENT

Chairman Wesley R. Belter: What are the wishes of the committee?

Representative Bette Grande: Made motion of DO NOT PASS as amended.

Vice Chairman Craig Headland: Seconded.

Representative Steven L. Zaiser: I really do feel that we have gotten tax relief for a couple of sessions now. This is strictly intended for tax relief for the renters the state. State wide it is 36%, in Fargo it is 55% in Grand Forks it may be more. Out west they are paying exurbanite rates. Contrary to some of the concerns laid out, as what if there is no more property relief. Well than there would be no reimbursement. Does it include houses that are rented out? Yes it does, it talks about residential property 1 dwelling up to 3 dwellings and on commercial property it talks about 4 and over. I feel it is clear and clean with no bureaucracy. It is from the landlord to the tenant for the property tax relief created by the tenant living there.

DO NOT PASS AS AMENDED YEAS 8 NAYS 4 ABSENT 2 CARRIER REP WEILER

11.0730.01001
Title.02000

Prepared by the Legislative Council staff for
Representative Zaiser
January 25, 2011

YR
1/26/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1394

Page 1, line 8, after the first "property" insert "or commercial property containing living accommodations of four or more separate family units"

Page 1, line 9, replace "lessors" with "lessees"

Page 1, line 9, replace "on December thirty-first of" with "during"

Page 1, line 9, after "year" insert "for which the lessor received the property tax relief. Payments to lessees who reside in the property at the end of the taxable year must be made by the following March first. Lessees who do not reside in the property at the end of the taxable year but who paid the rent for a unit in the property for at least one month during the taxable year are entitled to a property tax relief allocation under this section, upon providing the lessor a written request for the allocation and an address to which the allocation should be sent"

Page 1, line 10, replace "lessor" with "lessee"

Page 1, line 12, replace "lessor" with "lessee"

Page 1, line 12, replace "lessors" with "lessees"

Page 1, after line 12, insert:

"A small claims court action filed for enforcement of a lessee's right to a property tax relief allocation under this section may not be removed from small claims court.

A lessor subject to this section shall provide a copy of this section to each lessee at the time a lease is entered or by November 30, 2011, whichever is later."

Renumber accordingly

11.0730.01001
Title.

Prepared by the Legislative Council staff for
Representative Zaiser
January 25, 2011

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Date: 1-25-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0730.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☑ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Grande Seconded By Vice Chairman Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) X No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

VOICE VOTE

Date: 1-25-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass as amended ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh		✓
Vice Chair. Craig Headland	✓		Shirley Meyer		✓
Glen Froseth	✓		Lonny B. Winrich		✓
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad	✓				
Mark S. Owens	AB				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	AB				

Total (Yes) 8 No 4

Absent 2

Floor Assignment Rep. Weiler

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1394: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1394 was placed on the Sixth order on the calendar.

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Renumber accordingly

2011 TESTIMONY

HB 1394

Testimony #1 p. 1
1-25-11

Testimony on HB 1394

By Rocky Gordon

Line 9 should say Lessee
Line 10 should say Lessee
Line 12 should say Lessee in 2 places

Calculation of rent rebate
Arikara Apartments 121 & 125 E Arikara

Average rent (615 per month) ÷ total rent collected x tax reduction

7380 ÷ 332,973 = 2.2 %
5493 x 2.2 % = 120.85

Tax savings calculated
33,985 (2008 taxes) – 28,942 (2010 taxes) = 5493

Valleyview Apartments 2506 E Ave F & 825 N 26th Street

Average rent (450 per month) ÷ total rent collected x tax reduction

5400 ÷ 120,966 = 4.4 %
2592 x 4.6 % = 119.23

Tax savings calculated
14,918 (2008 taxes) – 12,336.62 (2010 taxes) = 2592.08

Average unit rebate $10.00/month per unit.

While our tax costs have deceased our other expenses have increased.

Insurance costs at Arikara went up from 6253 in 2008 to 13,893 in 2010 or 13.21 per unit per month.

Snow removal costs at Valleyview went up from 1293 in 2008 to 2461 in 2010 or 4.16 per unit per month and will likely go up more in 2011.

Labor costs at both properties went up about 6 % over the last 2 years. Did rents go down during these 2 years? No they did not.

At Arikara our rents went up $30/unit per month in 2 years. At Valleyview our rents went up $25/unit over the 2 years. The increase would have been higher had we not received the credit. How much I estimate $10.00 to $15.00 per unit per month. Have residents received their share I believe they have.

We are opposed to this bill because:

1. We believe the residents have received benefit.
2. The administrative cost and burden of the rent rebates will add to rent costs.
3. Landlords will look at rebates as merely a state created additional expenses that will be passed on in higher rent costs.
4. It creates complications
    1. Who gets the rebates in roommate situations?
    2. Who gets the rebates when residents are on Housing Assistance the agency or the resident?

Please help us in defeating a bill the actually raises costs and ultimately rents, and is unnecessary because the free market works.