

SENATE BILL 2385

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 23; Title 67, Chapter 4 and Title 67, Chapter 5, relative to affordable housing.

WHEREAS, housing is a basic necessity of life; and

WHEREAS, the lack of affordable housing can lead to homelessness and consequent breakup of the family unit; and

WHEREAS, the United States Department of Housing and Urban Development (HUD) has found that a family who pays more than thirty percent of its income for housing may have difficulties paying for other basic necessities such as food, clothing, transportation, and medical care. Households paying more than thirty percent of their incomes for rent are considered rent overburdened; and

WHEREAS, according to HUD, an estimated twelve million households in the United States pay more than fifty percent of their annual incomes for housing; and

WHEREAS, also according to HUD, a family with one full-time worker earning the minimum wage cannot afford the local fair-market rent for a two-bedroom apartment anywhere in the United States; and

WHEREAS, all areas of the state, but especially Davidson County and its greater metropolitan area, are struggling with a shortage of affordable housing; and

WHEREAS, in 2015, Nashville had a shortage of 18,000 affordable units. The housing report, "Housing Nashville," released in May 2017, estimated that Nashville's housing shortage, if no new units are added, will rise to almost 31,000 units by 2025 based on Nashville's current rate of growth; and

WHEREAS, the Tennessee Housing Development Agency (THDA) in its report, "Aging Affordable Rental Housing in Tennessee and the Need for Preservation," stated that "Cities in the south where population growth has been high in recent years are facing a particular shortage of affordable options at differing income levels, and the shortage is likely to worsen"; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, is amended by adding Sections 2 through 9 as a new part:

SECTION 2. This act shall be known as the "Affordable Rental Property Act."

SECTION 3.

(a) The general assembly finds that the increased market value of certain rental housing has caused an increase in taxes to the extent that owners cannot afford to pay the taxes and other expenses of the properties, if they rent to low-income persons at the below market rates generally charged for affordable rental housing.

(b) It is the policy of this state to encourage rental housing owners to provide affordable rental housing for the benefit of low-income persons.

SECTION 4. As used in this part:

(1) "Owner" means an owner of rental housing. "Owner" includes individuals and legal entities that own affordable rental housing. "Owner" does not include any owner of rental housing who participates or has participated in a subsidized federal or state housing program, including voucher programs, or whose rental housing was constructed using low income housing tax credits;

(2) "Relative" means a spouse, parent, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, uncle, aunt, nephew, or niece of an owner. "Relative" includes a parent, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, uncle, aunt,

nephew, or niece of the owner's spouse and a relative by a foster or adoptive relationship with an owner; and

(3) "Rental housing" means property that is suitable for and can be legally used as a dwelling by tenants. "Rental housing" includes the curtilage of the dwelling, but does not include any structures or improvements to real property that may not be used by the tenants of the dwelling. "Rental housing" may contain one (1) or more dwelling units.

#### SECTION 5.

(a) The Tennessee housing development agency (THDA) shall annually research the availability of affordable rental housing in each county of the state and determine which counties have a shortage of affordable rental housing.

(b) For counties having a shortage of affordable rental housing, THDA, by November 1 of each year, shall set:

(1) Annual county income limits for the following year that qualify different sizes of low income households for affordable rental housing for the purposes of this part; and

(2) Monthly rental rates that may be charged for affordable rental housing during the following year in each county having a shortage of affordable rental housing. The monthly rental rates shall be based on the size of the rental unit and the income limit for the size of a low income household.

(c) THDA shall provide the assessor of property in any county having a shortage of rental housing and the state board of equalization with the applicable income limits and monthly rental rates produced under subsection (b). THDA shall also provide the information on its website.

#### SECTION 6.

(a) The state board of equalization, in consultation with THDA, shall create an application form for owners to use in applying to the assessor of property in a county in which there is a shortage of affordable rental housing for classification of rental housing as affordable rental property. The application shall require an owner to provide information on the size of the rental unit for which classification as affordable rental property is sought and the monthly rental rate that will be charged. The state board of equalization may require the owner to provide other information that it or THDA finds pertinent.

(b) The application shall contain a statement about the posting of the income limits and the monthly rental rate limits that informs an applicant owner where to find the information on the internet and the need to consult this information if the owner intends to apply in other tax years. The applicant owner must initial the statement to indicate that the applicant owner has read it.

#### SECTION 7.

(a) To apply under this part for classification of rental housing as affordable rental property in a county in which there is a shortage of affordable rental housing, an owner must:

(1) File the application form created by the state board of equalization with the assessor of property of the county in which the rental housing is located;

(2) For the tax year in which classification of rental housing as affordable rental property is sought, provide to the assessor a statement, as required by the state board of equalization, attesting that the rental housing will be rented to low-income persons at or below affordable rental rates as determined by THDA;

(3) Agree that the owner will not rent to a relative and that the owner will not permit a tenant to sublet the rental housing; and

(4) Acknowledge that if the rental housing ceases to qualify as affordable rental property, then the owner will be responsible for taxes as assessed pursuant to Section 9.

(b) All owners of rental housing for which classification as affordable rental property is sought must sign the application.

(c)

(1) The application for classification as affordable rental property must be filed with the assessor of property in the county in which the rental housing is located by March 1 of the tax year for which classification as affordable rental property is sought.

(2) If the assessor approves the application, then the rental housing shall be classified as affordable rental property for the tax year in which the application was filed.

(3) For a tax year in which rental housing was classified as affordable rental property under this part, the owner must file with the assessor documents, as required by the state board of equalization, verifying that the rental housing was rented to low-income persons at affordable rental rates. The state board shall specify the documents that must be submitted and shall set the deadline for submission of the documents. The state board may require other information to be filed with the assessor that is necessary to verify that the rental housing was rented as affordable rental property. The state board may promulgate rules concerning the length of time in a year that rental housing must be rented to low-income tenants to qualify as affordable rental property.

SECTION 8. When rental housing has been classified by the assessor of property as affordable rental property under this part, the assessor shall consider its current use as

affordable rental property to be its immediate most suitable economic use. The assessor shall base its assessment on its value in its current use, rather than on its value for some other use as may be determined in accordance with part 6 of this chapter.

#### SECTION 9.

(a) The owner of rental housing that has been classified as affordable rental property under this part shall promptly notify the assessor of any change in the use or ownership of the rental housing that might affect its eligibility as affordable rental property.

(b)

(1) If, during a tax year in which rental housing has been classified as affordable rental property, the owner does not rent to low income persons or does not rent the rental housing at affordable rental rates, the rental housing is rendered unfit for human habitation by natural disaster, deterioration, or other circumstances, or the owner sells or otherwise transfers the rental housing to another owner, then the rental housing shall cease to be eligible for classification under this part for the tax year.

(2) If the owner of affordable rental property requests in writing during the tax year that the rental housing be removed from assessment as affordable rental property, then the assessor shall remove the classification under this part.

(c) Upon receiving notification or discovering that a rental housing no longer qualifies for classification under this part, the assessor of property shall reclassify the rental housing and shall value the rental housing according to its current market value under chapter 5, part 6 of this title for the tax year for which the rental housing was classified as affordable rental property. The owner shall be liable for the tax computed

on the value of the rental housing as determined by the assessor under part 6, chapter 5 of this part.

SECTION 10. The state board of equalization, in consultation with the Tennessee housing development agency, is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to the classification of rental housing as affordable property for the tax year beginning on January 1, 2019, and tax years thereafter.