

FISCAL NOTE
Requested by Legislative Council
01/08/2015

Bill/Resolution No.: HB 1070

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1070 refers to a qualified nonprofit organization as defined under I.R.C. § 42, which will expand the statute to include organizations that fall under both I.R.C. §§ 501(c)(3) and 501(c)(4).

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based on the non-profit entities that were certified for the affordable housing property tax exemption payment in lieu of taxes by the North Dakota Housing Finance Agency, an average 36.8 percent discount was realized over full property taxation. The discount varies based on size, revenue, vacancy and location differences among the certified properties.

Ten projects in 2013 and two projects in 2014 were unable to be certified to receive the exemption due to being structured as 501(c)(4) entities. It is unknown how many additional projects would qualify for this exemption if House Bill 1070 is adopted.

There would be no fiscal impact to the state of North Dakota. Any fiscal impact would be on local taxing jurisdictions.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/21/2015

2015 HOUSE FINANCE AND TAXATION

HB 1070

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1070
1/7/2015
21742

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the property tax exemption for affordable housing.

Minutes:

Attachment #1

Chairman Headland: Opened the hearing on the bill. Asked for testimony in favor of the bill.

Jolene Kline, Director of Housing Finance Agency: See attached testimony #1. We are asking that this committee move forward to include the 501(c)(4)s within that category of affordable housing. Affordable housing really exists with a number of issues that make it affordable. It is assistance on the front end through financing, construction financing, permanent financing but it is also impacted on the operational side. Property taxes pose a significant burden to an owner of a truly affordable housing project. In the bill this legislative body did not give them full property tax exemption; they pay a fair share of taxes that helps to meet the special services. So they are not getting 100% exemption; they are getting a reduction in their taxes based on 5% of the rents collected by the owner less the utilities paid by that owner. They are paying taxes; they are just not paying full property tax exemption.

Representative Hatlestad: How would 5% of rents minus utilities compare to the normal situation of the property tax bill. Is it close or not close?

Jolene Kline: That varies. When we were putting testimony together back in 2013 it ranged anywhere from 20% of the full taxable value up to as high as 50% of the taxable value. It depends on what the rent structure is within a community. With rent differentials in different parts of the state it really varies so I can't really give you any conclusive number.

Chairman Headland: Further testimony in support? Is there any opposition to HB 1070? Hearing closed on HB 1070.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee

Fort Totten Room, State Capitol

HB 1070

2/2/2015

22977

Subcommittee

Conference Committee

Committee Clerk Signature

Mary Bruker

Explanation or reason for introduction of bill/resolution:

A Bill relating to the property tax exemption for affordable housing.

Minutes:

No attachments

Chairman Headland: We got a new fiscal note on this bill. It's hard for them to project an amount but it indicates a 36.8% discount was realized over the full property taxation. There were 10 projects in 2013 and two in 2014 that were unable to be certified because they are structured as 501c4s. It's definitely an expansion of the program to more entities and I don't know if we should be concerned about that as much as how much is going to be available of the appropriation to fund the program.

Representative Dockter: I agree. I think we already have other entities that take advantage of this tax exemption. If we would pass this we would just be expanding who qualifies. I think it is utilized enough under the current code.

Chairman Headland: So you think that keeping it limited to 501c3s is proper?

Representative Dockter: I think so; it's already a good program and is working. We would just be expanding it with our fiscal situation that we're in.

Representative Hatlestad: In our area we are strapped for affordable housing so anything we can do to expand the program I would think would be a good idea for us. I realize cost is a factor but we need more affordable housing.

Chairman Headland: In the past we had this limited to \$35.4 million last session so by expanding the organizations and the opportunities for more projects, the end result would be less for each project but more projects. I don't have a problem expanding it to 501c4s but the end result depends on what that number ends up being. There's a bill to expand it to \$100 million in the senate.

Representative Schneider: I didn't see it so much as an expansion of the program as to rectify an issue or problem with it. It was built as more of a cleanup measure and doesn't really expand the amount of money available. Seeing the affordable housing issues in

other parts of the state, if we can make more providers potentially available I think it's a good thing.

Chairman Headland: I asked the bill sponsor from last session if it was specific to 501c3s only for a reason or if it was an oversight and Senator Cook said it was for a reason. The information brought by the Housing Finance Agency that it was a technical glitch in the program I don't think is necessarily the case.

Representative Toman: In looking at the IRS code and they mentioned 501c4s and those are social welfare organizations so we could be building low income housing but to me it doesn't specify.

Chairman Headland: They want in the affordable housing as well.

Representative Toman: Could you expand on Senator Cook's comments?

Chairman Headland: He was the lead on the 501c3 exemption last session. He thought it was specific to 501c3s. There was a specific project in Mandan that he was for and that's why he directed it towards 501c3s.

Representative Schneider: I looked back at the Grand Forks Housing Authority statement they submitted and it said that it primarily impacts the rural areas developed under the rural development programs that include the 501c4 nonprofit community development corporations. It indicates that 57.02.08.43 inadvertently excluded these properties from the exemption. Since we didn't get any opposition to this it might not be a bad idea to expand the pool of people that are available to solve our housing problem.

Chairman Headland: That is correct. Expanding it to another tier doesn't expand the program; it's the dollars that expand the program. It will make it more competitive as to where the dollars go though.

Representative Klein: Last session didn't we pass legislation referring to Grand Forks in particular to allow this?

Vice Chairman Owens: We went to great lengths with this HIF conference committee. We still went to \$35.4 million and now it's going to be either \$50 or \$100 million; that's the expansion. This expansion to a c4 would include housing authorities.

Representative Klein: Right now we're allowing them 36.8% discount on their taxes in that area if they qualify?

Vice Chairman Owens: This bill is about the housing incentive fund and whether or not they can use it if the money qualifies them or not. If we approve c4s then we create more competition on who can qualify, we don't expand the program but we create more competition.

Chairman Headland: But the end result is when you have more competition for dollars you're going to have more coming to the trough and expanding the fund. That's the policy

question we need to answer with this bill and that is if we believe that through 501c3s they can adequately use the amount of money we are going to place in the housing incentive fund and whether we need to expand it to another entity.

Representative Froseth: I wonder if they stretched the rules a bit because with 501c4s, nonprofit community development corporations, we built two 12plex in our town under the umbrella of the community development corporation being the sponsor. I'm not sure what our development corporation is now or what other kind of nonprofit could they be?

Chairman Headland: Were those projects able to utilize this fund in order to buy down property taxes?

Representative Froseth: Yes. I think around \$300,000 for each unit on a dollar for dollar income tax match.

Chairman Headland: I think that is different and if they were able to utilize this fund for payment in lieu of taxes they would have had to have been a 501c3.

Representative Hatlestad: MADE A MOTION FOR A DO PASS.

Representative Steiner: SECONDED.

Representative Trottier: If you start out with a 501c3 does that property have to be transferred to a nonprofit at some point in time?

Representative Froseth: No, it can be sold.

Representative Trottier: But it can be sold for a profit?

Chairman Headland: I think I'm going to vote against the do pass. I never thought this was good business for government to be in housing.

Representative Steiner: I agree with you but I'm going to go along with the do pass. We have such a serious issue out west and if somebody could come up with a better idea I would love to hear it. Right now this is the only idea that seems to work for the people. We have a crowding out effect of oil right now and with rent at \$2200 how do we hold essential workers. There have been bills that have been killed for essential workers. I don't like that government gets involved like this but I don't know what else to do.

Chairman Headland: You're correct. We have the program and just because the chairman doesn't necessarily like it doesn't mean the program is not going forward.

Representative Froseth: I'm going to support it too. I don't see a problem with more competition. I would object more with the infusion of more money into it because towards the end of the last biennium they were looking for people to come in and invest their own dollars to use up the money that was appropriated for last time. Now the governor put another \$20 million in the same fund. If that passes there will be plenty of funds to add the extra nonprofits.

Chairman Headland: The money got used up in a hurry last time. Is there any concern that the state will end up with too much low income housing? At least not in the current day.

Vice Chairman Owens: All this does is change the definition only for this subsection of affordable housing to expand it to housing authorities to allow them to get into the HIF fund and to use that. Compared to 2011 the program was described to us as government project housing. Between then and now they changed it into a different type of program. The program exists now in that they go in and fund a portion of apartments in this building and by doing so they are guaranteed they will be low income for the next 15 years. As rents go up that percentage that is written off goes up as well. We actually realized the value of a dollar today 15 years from now.

Chairman Headland: It is an expansion of the pool of opportunities and when you expand the pool you're probably going to have pressure to expand the dollar amount and that is the sole reason I will be voting against it.

Representative Dockter: The current program indicates if you have a 12 unit then at least seven needs to be affordable and five they can do at market.

Representative Froseth: We have two 12plex and one third of the units are left for low income. All of the units are under rental guidelines.

Representative Dockter: They made it so they had a portion that had to be affordable. Even if we change the definition I think we are just going to keep expanding and having more dollars put into the program.

ROLL CALL VOTE FOR DO PASS: 8 YES 5 NO 1 ABSENT

Representative Hatlestad will carry this bill.

Date: 2-2-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1070**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Hatlestad Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND		✓	REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	AB	
REP DOCKTER		✓	REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN		✓			
REP KADING		✓			
REP TROTTIER		✓			

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

HB 1070: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1070 was placed on the Eleventh order on the calendar.

2015 SENATE FINANCE AND TAXATION

HB 1070

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1070
3/4/2015
Job #24288

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Relating to the property tax exemption for affordable housing

Minutes:

Attachment #1, #2

Chairman Cook opened the hearing on the bill.

Jolene Kline, Executive Director, N.D. Housing Finance Agency -- HB1070 was introduced at the request of their agency. (Attachment #1)

Chairman Cook -- The fiscal impact you say is realized by the local taxing jurisdiction. The fiscal impact is absorbed by the other property owners and the taxing jurisdictions, correct?

Jolene Kline -- That is correct.

No further testimony.

Chairman Cook closed the hearing on HB1070.

Attachment #2 was received via email after the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1070
4/6/2015
Job #25811

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alicia Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Chairman Cook opened the committee work on HB1070.

Sen. Cook -- Some of you should recognize this issue, I think, those of you who have been on this tax committee the last couple bienniums, last session the bill that we had that dealt with this little issue was 2338 and it had to do with charitable property, whether it's charity when you have federal housing credits in a housing project. It has ties to Grand Forks Supreme Court lawsuit. In 2011 there was a bill that made it clear that it was not charity that, if they had federal tax credits, that was not charity and they paid property taxes. Last session what we did is if the, for profit, that was involved with the tax credits and ownership with the project, if at the end of the tax credits, it was in the contract where the for profit gave ownership to the property to the not for profit, then they were able to be taxed at a rate lower than, or was it ad valorem, it was a rate based on the number of units. "Shall make a payment equal to 5% of the balance of the total annual rents collected during the preceding calendar year, minus the utility costs". So that is what they were taxed at and you had to be a 501c3 company, nonprofit to get that. This bill, as I look at it, does not change that but it expands the number of nonprofits that will be able to receive that favorable treatment by eliminating references to a 501c3 and moving it into section 42. I've been trying to find out what that actually does out there in the world, how many projects. If you read the fiscal note, I think you will see where state housing and finance has acknowledged, number 1, the average deduction in the property tax looks, from the fiscal note, to be 36.8% and how many other projects would be affected is unknown. I thought I read some references where they turned down something like 50 projects. 57-02-08 is the section of law that identifies all of the property in North Dakota that is not subject to ad valorem taxes and there are 43 of them, 43 sections. This particular one that we are dealing with is the 43rd section. So that is what it does.

Sen. Bekkedahl -- If I could correct that, in testimony from the housing finance agency, they said 9 projects in 2013 and 5 in 2014 were unable to be certified because they were 501c4 entities; another 5 in 2013 and 2 in 2014 did not submit because they knew their

status would preclude them. They go on to say, that there have been 50 projects certified for the payment in lieu of taxes to date, totally. It is undetermined how many additional projects would qualify with this change.

Sen. Cook -- 501c4, according to the IRS, to be exempt under section 501c3, of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501c3 and none of its earnings may inure to any private shareholder or individual; conversely, the IRS states that a 501c4, which is trying to be included here, operates exclusively to provide social welfare programs and net earnings must be used to support charitable or educational endeavors. According to the IRS, if your organization plans to participate in campaigning or lobbying activities, it can only receive tax exemption through 501c4. That's the difference.

Sen. Triplett -- But that doesn't mean that those of our housing organizations who are set up as 501c4's do lobbying. If we wanted to put that kind of a restriction in state law, we could. They are clearly operated exclusively for the promotion of social welfare. That's clear in the federal law, and that's what the ones in Grand Forks are doing. My reading of the testimony that we received from the housing finance agency is that, with regards to organizations, which serve the same low-income population as the ones who are organized as 501c3's; regarding the number of projects I guess that's just 2 organizations with a variety of projects.

Sen. Cook -- Look through that again, does anywhere it say the 2 organizations, is it beyond shelter?

Sen. Triplett -- One of them is the one in Grand Forks. I don't know what the other one is.

Sen. Cook -- Dana, do you know?

(Dana is off-microphone and her comments are not recorded.)

Sen. Cook -- Beyond shelter is a 501c3?

Sen. Triplett -- Yes, I'm reading from Jolene Kline's testimony.

Sen. Cook -- I just wished I knew what they were. Linda, anything to add?

Linda Leadbetter, Office of State Tax Commissioner -- The only thing that I can add is probably to explain a little bit why there is a difficulty in giving you these numbers. We've looked at it and we've tried to gather information from different sources from North Dakota Housing and Finance, from any of the previous bills, any of the language that was used to try to interpret this in the past and, even with the housing and finance agency, they are saying that they had so many that maybe applied in the previous year that weren't eligible because they were a 501c4. That only means that those are the ones that maybe didn't understand the law quite enough so that they applied for it and didn't realize that they were eligible. (meter 8:23-8:53)

Sen. Cook -- 57-02-08 sub 8 which is the charity section, right there it references only 501c3's. The exemption provided by this section includes any dormitory, dwelling or residential type structure together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501c3. It doesn't reference 501c4 there. And, so, if we are referencing 501c4 later on, in a subsection, is the next step going to be to change this one?

Linda Leadbetter -- I suppose that would be a necessary change, if we are looking at it that way. Again, the question is, from earlier testimony, if this were actually overlooked at the previous session, if they meant to have it be broader than 501c3; that, of course, is something that we cannot determine. But we interpreted the law very specifically for the affordable housing to be solely 501c3's because that is how it was adopted in 2013.

Sen. Oehlke -- One of the people that testified before from the housing authority mentioned that a housing authority may create an entity such as an LLC or LP, is that accurate? Is the ultimate owner, although the housing authority retains controlling or management interest of said housing project?

Linda Leadbetter -- I guess I would have to look at that a little bit more to understand her testimony.

Sen. Oehlke -- Well, I can give you a copy. I was curious if that was possible, then the ability to not have to pay property tax on a housing project that benefit would pass through to the shareholders, basically. I'm not sure if that can be done, or not.

Sen. Cook -- A housing authority is a political subdivision. They could own the property themselves and it would be property tax exempt. They could partner with a nonprofit, a 501c3, and it would property tax exempt. The challenge is when they bring in the for profit as a partner to take advantage of tax credits.

Sen. Oehlke -- You wouldn't need a LLC or LP unless you were bringing in a for profit organization or group of investors.

Linda Leadbetter -- I apologize, there is a word missing at the beginning of that sentence. Was there some other comment made to that prior to facilitate development of affordable housing, the housing authority may create an entity such as an LLC? As Sen. Cook stated, if it is actually a housing authority, they would have that exemption. I don't know if I can understand why they would do the legal change to be a LLC or LP.

Sen. Oehlke -- What I do know of individual LLP, or call them whatever you want, I am aware of more than one that have purchased property, own it, and then turn over the operations of it, management, to a local housing authority. Wondering then if that would allow them not to have to pay property tax. It doesn't make sense to me.

Sen. Cook -- No, they do not.

Linda Leadbetter -- I would like to review that with our legal division to make sure that I am interpreting that correctly.

Sen. Cook -- We will get someone over here from housing finance to clarify who is actually a 501c4.

Linda Leadbetter -- You are looking for someone who is a 501c4 that is identified and possibly one of those that were not eligible the last time?

Sen. Cook -- Yes. Any other questions on that 1070 or am I the only one with questions?

Sen. Laffen -- We didn't have any 501c4's come in and ask for this in testimony, did we? Just one 501c3, Grand Forks Housing. Oh, they are a political sub.

Sen. Cook -- No.

Sen. Unruh -- I have the same questions and I'd like to know the answer before I vote on it.

Sen. Dotzenrod -- Is property owned by a political subdivision taxed? The county owns the property, is that taxed? I didn't think it was.

Sen. Cook -- No.

Sen. Dotzenrod -- This email says they would like to have this amended so it would include property owned by a political subdivision. Are we talking about credits as opposed to being exempt.

Sen. Cook -- You are reading the housing authority testimony?

Sen. Dotzenrod -- This is from Alice Grow, Grand Forks. That first paragraph. They would like to have 57-02-08 be amended to include property owned by a political subdivision as well as that owned by a nonprofit.

Sen. Cook -- That is what confuses me too. They don't pay taxes. Not all housing authorities own property.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB1070
4/9/2015
Job #25952

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Attachment #1

Chairman Cook opened the committee work on HB1070. All members present except Sen. Laffen.

Sen. Cook -- Sen. Laffen did a lot of research on HB1070. It looks like a fairly simple bill. The problem from the fiscal note is that there are some 501c4's out there that are nonprofit but they don't qualify for this smaller property tax that we put in place last session, if you recall. It looks like the deduction, from the fiscal note, has been averaging about 36.8% so you have some projects that are paying full ad valorem taxes, they want to get moved over here like the 501c3's and get the reduced rate which is equal to 5% of the balance of the total annual rents collected during the preceding calendar year, minus utility costs paid for it.

You should have a handout like this (**Attachment #1**). The fiscal note made reference to 10 projects in 2013, 2 projects in 2014 that did not qualify for it. I wish Sen. Laffen was here but he did the research on it. Somewhere in here I would think there would be a for-profit but I don't see any reference to for-profit. He talked to the Grand Forks Housing Authority and they have 2 projects, they manage the projects, the projects are owned by Aneta Homes and Continental Homes. Continental Homes is actually a project that the teamsters union started in the 60's. They are both 501c4. There is not a for-profit involved in it. If they don't want to pay property taxes, why don't they just give it to the housing authority and have the taxes go to zero? If you go to the century code, charity, 57-02-08, you will see in the a section of that, there are 43 sections that talk about who doesn't pay property tax. 501c3 is the charity that is exempt. I'm not sure what the problem is here, except that it is kind of lucrative if you can get yourself a property tax reduction by getting a piece of legislation introduced, but I'm not sure that it is the right thing to do.

Sen. Bekkedahl -- I had written in my notes during testimony from the housing finance agency, 44, 501c4 organizations in USDA program areas; I didn't know if that was the reason.

Sen. Cook -- There was other testimony that was referenced to being inadvertent. I don't think it was inadvertent. I think we did a lot of work to make sure that these housing projects that were in place partnered with a for-profit so they can take advantage of tax credits. We offered them a lower tax rate, provided that by the time the tax credits were used that the contract had language making sure that the for-profit relinquished all ownership and it was owned by the nonprofit.

Sen. Bekkedahl -- To follow up, I didn't get a sense that because this provision is not law, that the 501c4's were not functioning as housing builders at this time. Did you get any sense of that from the discussion? I'm looking at this and saying, well, if it's working the way that it is right now and it's providing the housing, what's the difference here that they are trying to make?

Sen. Cook -- I think that is the question. The difference is that they are trying to get a reduction in taxes. I'm not sure what the problem is.

Sen. Oehlke -- Was part of it to allow that to pass through to investors in those c4's?

Sen. Cook -- c4's are nonprofit. There are no investors.

Sen. Unruh -- If appropriate, I would make a do not pass motion on HB1070.

Sen. Oehlke -- Seconded.

Sen. Cook -- We have a motion and second for a do not pass on HB1070. Discussion?

Sen. Triplett -- I must say that I do not understand Sen. Laffen's research. The memo is a little distracting to me. If someone can help me interpret what you think he is saying, I would appreciate that.

Sen. Cook -- All of the writing, his notes, are from a telephone conversation he had with Terry Hanson. I looked at it before he started doing the research. You have 12 projects it looks like, I'm not sure if this is all inclusive of what is out there but these are the 12 apparently that were denied by housing and finance in the last 2 years. I tried to look at who is the owner of the project and no where do I see any reference to a for-profit which is what would make that project taxable. The other thing you see is 501c4's and 501c4's are not charity. They are nonprofits that pay property taxes because that is the law and always has been. That is what they are asking for, under this section, to get the reduced tax rate, not to go to zero tax but to go to that 5% of annual rents.

Sen. Dotzenrod -- The list that we have, that Sen. Laffen provided, is that intended to be a complete, comprehensive list? It's not complete? There are others that are not on here?

Sen. Cook -- There is reference that there are more and nobody knows it. Even the fiscal note says it is unknown how many additional projects would qualify if this exemption in 1070 was adopted.

Sen. Dotzenrod -- Would it seem that most of these 501c4's that if they wanted to not pay taxes they could become or have the property owned by a nonprofit.

Sen. Cook -- 501c4 is a nonprofit. According to the IRS, if the organization plans to participate in campaigning or lobbying activities it can only receive tax exemption through a 501c4. That tax exemption that they are talking about is, I assume, income tax exemption. Our code, and Dee or Dan help me if I am wrong, but to be exempt from property tax in North Dakota, as a nonprofit, you have to be a 501c3. We have nonprofits that pay property tax. Blue Cross Blue Shield is a nonprofit. It pays property tax. Only 501c3's in North Dakota are exempt and the test I have always used is, if you can contribute to the nonprofit and deduct it from your income tax, it's a 501c3 and it's exempt from property tax. This is what this is trying to do. My real question is, if they are trying to make 501c4's exempt from property tax, they should go up, next in subsection 43 of the chapter, they should go up to subsection 8 of that chapter; which is where it makes it very clear that to be a charity you have to be a 501c3.

Sen. Triplett -- If I am understanding the housing finance agency testimony, it's not that they want to make all 501c4's property tax exempt, but rather that they want to make this one category of affordable housing exempt and that's why they put it in this section. (meter 11:36-13:23)

Dee is speaking off microphone and her comments are not recorded.)

Sen. Cook -- Sen. Triplett, I do agree. That's what they are trying to do and I don't think it was inadvertent that we didn't do it last session and I don't think we want to open up the can of worms to allow it, myself.

Sen. Triplett -- I would agree with you that it wasn't inadvertent but I think it was that we weren't creative enough to figure out how to do it last time.

Roll call vote on a do not pass on HB1070. 4-2-1. (Vote left open for Sen. Laffen who voted aye on 4-14-15 on Job # 26082 0:00:00-0:00:32) Final vote total 5-2-0.

Carrier: Sen. Laffen

Date: 4-9-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1070

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By: Sen. Unruh Seconded By Sen. Osheko

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod		✓
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett		✓
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Laffen

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

REPORT OF STANDING COMMITTEE

HB 1070: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1070 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1070



HB 1070
1-7-15
#1 p.1
Jolene Kline Executive Director

INDUSTRIAL COMMISSION
Jack Dalrymple Governor
Wayne Stenehjem Attorney General
Doug Goehring Agriculture Commissioner

HB 1070

Wednesday, January 7, 2015

**North Dakota Housing Finance Agency
Division of the State Industrial Commission
Testimony by Jolene Kline, Executive Director
House Finance and Taxation Committee**

Chairman Headland and members of the Finance and Taxation Committee,

My name is Jolene Kline, executive director of the North Dakota Housing Finance Agency (NDHFA). House Bill 1070 seeks to amend Subdivision f of subsection 43 of North Dakota Century Code Section 57-02-08. We regard this largely as a technical correction to make language consistent throughout the subsection.

Subsection 43 was adopted by the 63rd Legislative Assembly in 2013 and provides that non-profit owners of housing projects receiving assistance through a local, state or federal affordable housing program may make a payment of 5 percent of rents adjusted by subtracting owner-paid utility costs in lieu of paying property taxes. To be eligible for this payment in lieu of taxes, the property must be subject to and in compliance with a land use restriction agreement that defines mandatory rent and household income restrictions; and must be owned or controlled by a qualified non-profit entity or political subdivision. If a for-profit entity, such as a limited partner, has an ownership interest in the property, then under a partnership agreement or other legally enforceable instrument, the ownership interest must provide for transfer to the non-profit at a stated time without financial gain to the for-profit entity.

If the property contains some rental units that are not subject to income and rent restrictions (market rate units), then the property tax reduction is calculated as a percentage of affordable units divided by total units in the property.

The current language in Subdivision f restricts the exemption to 501(c)(3) organizations. HB 1070 seeks to make Subdivision f consistent with Subdivision a, which states qualified nonprofit entities are those "defined in section 42 of the Internal Revenue Code [26 U.S.C. 42]."

Section 42 is the portion of the Internal Revenue Code that deals with Low-Income Housing Tax Credits. Qualified nonprofit organizations are defined in that section as including both 501(c)(3) and 501(c)(4) organizations.

501(c)(3) is defined in U.S. Code as:

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

501(c)(4) is defined in U.S. Code as:

- (A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.
- (B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

In the course of certifying the qualifications of properties under the affordable housing property tax exemption in the past year, NDHFA found some projects which otherwise would have qualified except that they were structured as 501(c)(4) non-profit entities and thus were excluded from receiving the exemption. Ten projects in 2013 and two projects in 2014, most owned by small community housing authorities, were unable to be certified to receive the exemption due to being structured as 501(c)(4) entities. Another four in 2013 and two in 2014 did not submit the proper documentation for certification, but they may have not responded to our requests for additional information because they knew their 501(c)(4) status would preclude them.

It is unknown how many additional projects would qualify for this exemption if this bill is adopted.

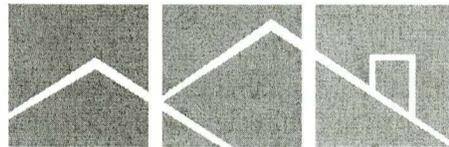
Thank you and I would be happy to answer any questions.

exemption under this subsection. For purposes of this subsection, "builder" includes an individual who builds that individual's own residence.

43. All residential rental property, inclusive of land and administrative and auxiliary buildings, used as affordable housing shall be exempt from taxation for the property's period of affordability.
- a. The property is exempt under this section if the housing finance agency certifies to the county director of tax equalization that on January 1, 2013, or thereafter, the residential rental property complies with the following:
 - (1) The property is subject to and in compliance with a land use restriction agreement that enumerates the mandatory income and rent restrictions;
 - (2) The property is owned by a qualified nonprofit entity, as defined in section 42 of the Internal Revenue Code [26 U.S.C. 42]. If under a partnership agreement or other legally enforceable instrument, a for-profit entity, such as a limited partner, has an ownership interest in the property, then the agreement must provide that the nonprofit entity must have the right of first refusal in any transfer of the ownership interest in the property. The partnership agreement or other legally enforceable instrument also must provide that any transfer of the ownership interest by the for-profit entity must be without financial gain; and
 - (3) The general partner or other ownership entity is owned or controlled by a nonprofit entity or a political subdivision.
 - b. For projects beginning after December 31, 2012, the exemption begins for the first taxable year after the owners of the rental property receive a building permit from the local jurisdiction in which the affordable housing residential rental property will be located.
 - c. If part of the residential rental property is not eligible to receive assistance through local, state, or federal affordable housing programs, the exemption under this section is calculated by dividing the number of income and rent-restricted units by the total number of rental units.
 - d. In lieu of the ad valorem taxes that would otherwise be assessed, the project owners shall make a payment equal to five percent of the balance of the total annual rents collected during the preceding calendar year, minus the utility costs for the property paid by the owner of the property.
 - e. If an affordable housing rental property fails to comply with the requirements of this section, or fails to comply with rent and household income restrictions under a local, state, or federal affordable housing program, on or before March fifteen of each calendar year, the housing finance agency shall notify the director of tax equalization and the state supervisor of assessments that the property is no longer eligible for the exemption.
 - f. For the purposes of this subsection, "affordable housing" includes property eligible for or receiving assistance through a local, state, or federal affordable housing program and in which rent and household income restrictions apply, and which is owned by nonprofit entities organized for the purpose of providing affordable housing. Affordable housing is limited to residential rental property owned by or with a controlling ownership or management interest by an organization organized and operated exclusively for exempt purposes set forth in section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)].

57-02-08.1. Homestead credit.

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a



GRAND FORKS
HOUSING AUTHORITY

WRITTEN TESTIMONY PROVIDED TO
ND HOUSE OF REPRESENTATIVES
FINANCE AND TAXATION COMMITTEE
DURING THE 64th LEGISLATIVE ASSEMBLY
ON JANUARY 7TH, 2014
IN SUPPORT OF
HB 1070
REGARDING THE

PROPERTY TAX EXEMPTION FOR AFFORDABLE HOUSING

Chairman Headland
Vice Chairman Owens
Members of the Finance and Taxation Committee

I write today to ask not only for your support of HB 1070, as this bill is presented, to rectify the exclusion of certain nonprofit owned affordable housing properties throughout the state, but also to ask that subdivision 43.a (2) and subdivision 43.f. of Section 57.02.08 of NDCC be amended to include property owned by a political subdivision as well as that owned by a nonprofit.

HB 1070 is necessary as drafted because the current version of the legislation only provides the exclusion for property owned by 501(c)(3) nonprofit entities. It was found by the ND Housing Finance Agency during the implementation of the exemption that there are a number of properties, primarily those in rural areas developed under Rural Development programs, that were developed by 501(c)(4) nonprofit Community Development Corporations. As written, 57.02.08.43 inadvertently excluded these properties from the exemption.

Also excluded from exemption are properties that, rather than being developed by a nonprofit, are being developed by a local housing authority (a political subdivision). To address this exclusion, **just as subsection 43.a.(3) includes "a political subdivision."** subdivisions 43.a(2) and 43.f should be amended to include that the ownership entity be a qualified nonprofit **and/or a political subdivision**



1405 – 1st Avenue North, Grand Forks, ND 58203
(701)746-2545(office) (701)787-9437(direct) (701)740-6738(cell)
(701)746-2548(fax) TDD 711 tnhanson@grandforksgov.com



HB 1070
1-7-15
#1 p.2

● Page 2

January 5, 2015

Note: To facilitate the development of affordable housing, a housing authority may create an entity such as an LLC or an LP as the ultimate owner although the housing authority retains controlling or management interest of said housing project.

Thank you in advance for you favorable consideration of HB 1070 and the desired amendments and Thank You for all you do.

Respectfully submitted,

Terry Hanson
Executive Director



#1

Jolene Kline Executive Director

INDUSTRIAL COMMISSION

Jack Dalrymple Governor

Wayne Stenehjem Attorney General

Doug Goehring Agriculture Commissioner

HB 1070

Wednesday, March 4, 2015

**North Dakota Housing Finance Agency
Division of the State Industrial Commission
Testimony by Jolene Kline, Executive Director
Senate Finance and Taxation Committee**

Chairman Cook and members of the Finance and Taxation Committee,

My name is Jolene Kline, executive director of the North Dakota Housing Finance Agency (NDHFA). House Bill 1070 seeks to amend Subdivision f of subsection 43 of North Dakota Century Code Section 57-02-08.

Subsection 43 (full text attached for your reference) was adopted by the 63rd Legislative Assembly in 2013 and provides that nonprofit owners of housing projects receiving assistance through a local, state or federal affordable housing program may make a payment of 5 percent of rents adjusted by subtracting owner-paid utility costs in lieu of paying property taxes. To be eligible for this payment in lieu of taxes, the property must be subject to and in compliance with a land use restriction agreement that defines mandatory rent and household income restrictions; and must be owned or controlled by a qualified nonprofit entity or political subdivision. If a for-profit entity, such as a limited partner, has an ownership interest in the property, then under a partnership agreement or other legally enforceable instrument, the ownership interest must provide for transfer to the nonprofit at a stated time without financial gain to the for-profit entity.

If the property contains some rental units that are not subject to income and rent restrictions (market rate units), then the property tax reduction is calculated as a percentage of affordable units divided by total units in the property.

The current language in Subdivision f restricts the exemption to 501(c)(3) organizations. HB 1070 seeks to make Subdivision f consistent with Subdivision a, which states qualified nonprofit entities are those "defined in section 42 of the Internal Revenue Code [26 U.S.C. 42]."

Section 42 is the portion of the Internal Revenue Code that deals with Low-Income Housing Tax Credits. States are required under paragraph 5 of section 42(h) to set aside 10 percent of the annual credit authority for projects developed and operated by qualified nonprofit organizations. Qualified nonprofit organizations are defined in that

1.2
HB 1070
3.4.15

section as including both 501(c)(3) and 501(c)(4) organizations. For your reference, please find attached the text of section 42(h)(5).

Organizations exempt from taxation in paragraph 3 of section 501(c) are:

“Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious; charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

Organizations exempt from taxation in paragraph 4 of section 501(c) are:

“(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.”

As the allocating agency of the Low Income Housing Tax Credit program since its beginning in 1987, we have recognized both 501(c)(3) and 501(c)(4) entities equally as eligible nonprofit organizations. The intent of HB 1070 is to create the same sense of equality and clarity under subsection 43 of NDCC 57-02-08. Without this change, two organizations serving the same low-income population in North Dakota are being treated differently for property tax purposes.

In the course of certifying the qualifications of properties under the affordable housing property tax exemption, NDHFA found some projects which otherwise would have qualified except that they were structured as 501(c)(4) non-profit entities and thus were excluded from receiving the exemption. Nine projects in 2013 and five projects in 2014, most owned by small community housing authorities, were unable to be certified to receive the exemption due to being structured as 501(c)(4) entities. Another five in 2013

1.3
HB 1070
3.4.15

and two in 2014 did not submit the proper documentation for certification, but they may have been unresponsive to our requests for additional information because they knew their 501(c)(4) status would preclude them.

As demonstrated here, once the word that 501(c)(4) projects were being rejected for this payment in lieu of taxes, we received very few requests for certification from any projects other than 501(c)(3)s.

There have been 50 projects certified for the payment in lieu of taxes to date. It is undetermined how many additional projects would qualify with this change.

In working with the Tax Department to compile the fiscal note for HB 1070, we analyzed the payments in lieu of taxes of the projects that were certified. As stated in the fiscal note, "an average 36.8 percent discount was realized over full property taxation. The discount varies based on size, revenue, vacancy and location differences among the certified properties."

Any fiscal impact of this payment in lieu of taxes is not borne by the state, but rather is realized at the local taxing jurisdiction level.

Thank you and I would be happy to answer any questions.

1.4
HB 1070
3.4.15

Attachment 1

43. All residential rental property, inclusive of land and administrative and auxiliary buildings, used as affordable housing shall be exempt from taxation for the property's period of affordability.

- a. The property is exempt under this section if the housing finance agency certifies to the county director of tax equalization that on January 1, 2013, or thereafter, the residential rental property complies with the following:
 - (1) The property is subject to and in compliance with a land use restriction agreement that enumerates the mandatory income and rent restrictions;
 - (2) The property is owned by a qualified nonprofit entity, as defined in section 42 of the Internal Revenue Code [26 U.S.C. 42]. If under a partnership agreement or other legally enforceable instrument, a for-profit entity, such as a limited partner, has an ownership interest in the property, then the agreement must provide that the nonprofit entity must have the right of first refusal in any transfer of the ownership interest in the property. The partnership agreement or other legally enforceable instrument also must provide that any transfer of the ownership interest by the for-profit entity must be without financial gain; and
 - (3) The general partner or other ownership entity is owned or controlled by a nonprofit entity or a political subdivision.
- b. For projects beginning after December 31, 2012, the exemption begins for the first taxable year after the owners of the rental property receive a building permit from the local jurisdiction in which the affordable housing residential rental property will be located.
- c. If part of the residential rental property is not eligible to receive assistance through local, state, or federal affordable housing programs, the exemption under this section is calculated by dividing the number of income and rent-restricted units by the total number of rental units.
- d. In lieu of the ad valorem taxes that would otherwise be assessed, the project owners shall make a payment equal to five percent of the balance of the total annual rents collected during the preceding calendar year, minus the utility costs for the property paid by the owner of the property.
- e. If an affordable housing rental property fails to comply with the requirements of this section, or fails to comply with rent and household income restrictions under a local, state, or federal affordable housing program, on or before March fifteen of each calendar year, the housing finance agency shall notify the director of tax equalization and the state supervisor of assessments that the property is no longer eligible for the exemption.
- f. For the purposes of this subsection, "affordable housing" includes property eligible for or receiving assistance through a local, state, or federal affordable housing program and in which rent and household income restrictions apply, and which is owned by nonprofit entities organized for the purpose of providing affordable housing. Affordable housing is limited to residential rental property owned by or with a controlling ownership or management interest by an organization organized and operated exclusively for exempt purposes set forth in section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)].

1.5
HB 1070
3.4.15

Attachment 2

(5) Portion of State ceiling set-aside for certain projects involving qualified nonprofit organizations

(A) In general

Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B).

(B) Projects involving qualified nonprofit organizations

For purposes of subparagraph (A), a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469 (h)) in the development and operation of the project throughout the compliance period.

(C) Qualified nonprofit organization

For purposes of this paragraph, the term "qualified nonprofit organization" means any organization if—

- (i) such organization is described in paragraph (3) or (4) of section 501 (c) and is exempt from tax under section 501 (a),
- (ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; ^(B) and
- (iii) 1 of the exempt purposes of such organization includes the fostering of low-income housing.

(D) Treatment of certain subsidiaries

(i) In general For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

(ii) Qualified corporation For purposes of clause (i), the term "qualified corporation" means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

(E) State may not override set-aside

Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

NDLA, S FIN - Grove, Alice

2
HB 1070
3-4-15

From: Tnhanson@grandforksgov.com
Sent: Tuesday, March 03, 2015 8:36 AM
To: NDLA, S FIN - Grove, Alice
Cc: Cook, Dwight C.; Laffen, Lonnie J.; Triplett, Constance T.; Bekkedahl, Brad; Dotzenrod, Jim A.; Oehlke, H. Dave; Unruh, Jessica K.
Subject: HB 1070
Attachments: HB 1070 Written Testimony Senate.pdf

Please provide the following written testimony to the Finance and Taxation Committee as appropriate.

(See attached file: HB 1070 Written Testimony Senate.pdf)

WRITTEN TESTIMONY PROVIDED TO
ND SENATE
FINANCE AND TAXATION COMMITTEE
DURING THE 64th LEGISLATIVE ASSEMBLY
ON MARCH 4TH, 2014
IN SUPPORT OF
HB 1070
REGARDING THE
PROPERTY TAX EXEMPTION FOR AFFORDABLE HOUSING

Chairman Cook
Vice Chairman Laffen
Members of the Finance and Taxation Committee

I write today to ask not only for your support of HB 1070, as this bill is presented, to rectify the exclusion of certain nonprofit owned affordable housing properties throughout the state, but also to ask that subdivision 43.a (2) and subdivision 43.f. of Section 57.02.08 of NDCC be amended to include property owned by a political subdivision as well as that owned by a nonprofit.

HB 1070 is necessary as drafted because the current version of the legislation only provides the exclusion for property owned by 501(c)(3) nonprofit entities. It was found by the ND Housing Finance Agency during the implementation of the exemption that there are a number of properties, primarily those in rural areas developed under Rural Development programs, that were developed by 501(c)(4) nonprofit Community Development Corporations. As written, 57.02.08.43 inadvertently excluded these properties from the exemption.

Also excluded from exemption are properties that, rather than being developed by a nonprofit, are being developed by a local housing authority (a political subdivision). To address this exclusion, just as subsection 43.a.(3) includes "a political subdivision." subdivisions 43.a(2) and 43.f should be amended to include that the ownership entity be a qualified nonprofit and/or a political subdivision

Note: To facilitate the development of affordable housing, a housing authority may create an entity such as an LLC or an LP as the ultimate owner although the housing authority retains controlling or management interest of said housing project.

2.2.
HB 1070
3.4.15

Thank you in advance for your favorable consideration of HB 1070 and the desired amendments and Thank You for all you do.

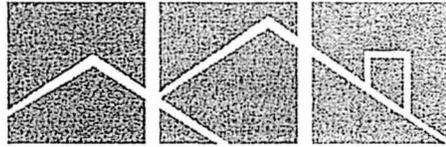
Respectfully submitted,

Terry Hanson
Executive Director
Grand Forks Housing Authority
1405 1st Avenue North
Grand Forks, ND 58203

(701)746-2545 office
(701)787-9437 direct
(701)740-6738 cell
(888)237-6055 toll free
(701)746-2548 fax
TDD 711
tnhanson@grandforksgov.com

Confidentiality Notice: This e-mail message, including any attachment(s), is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Unauthorized review, use, disclosure, distribution, or copying is prohibited. If you are not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, please contact the sender by reply e-mail or telephone (701-746-2545) and return the original message to the sender at the Grand Forks Housing Authority, 1405 1st Ave N, Grand Forks ND 58203, via the United States Postal Service. Thank you.

2.3
HB 1070
3.4.15



GRAND FORKS
HOUSING AUTHORITY

WRITTEN TESTIMONY PROVIDED TO
ND SENATE
FINANCE AND TAXATION COMMITTEE
DURING THE 64th LEGISLATIVE ASSEMBLY
ON MARCH 4TH, 2014
IN SUPPORT OF
HB 1070
REGARDING THE
PROPERTY TAX EXEMPTION FOR AFFORDABLE HOUSING

Chairman Cook
Vice Chairman Laffen
Members of the Finance and Taxation Committee

I write today to ask not only for your support of HB 1070, as this bill is presented, to rectify the exclusion of certain nonprofit owned affordable housing properties throughout the state, but also to ask that subdivision 43.a (2) and subdivision 43.f. of Section 57.02.08 of NDCC be amended to include property owned by a political subdivision as well as that owned by a nonprofit.

HB 1070 is necessary as drafted because the current version of the legislation only provides the exclusion for property owned by 501(c)(3) nonprofit entities. It was found by the ND Housing Finance Agency during the implementation of the exemption that there are a number of properties, primarily those in rural areas developed under Rural Development programs, that were developed by 501(c)(4) nonprofit Community Development Corporations. As written, 57.02.08.43 inadvertently excluded these properties from the exemption.

Also excluded from exemption are properties that, rather than being developed by a nonprofit, are being developed by a local housing authority (a political subdivision). To address this exclusion, **just as subsection 43.a.(3) includes "a political subdivision."** subdivisions 43.a(2) and 43.f should be amended to include that the ownership entity be a qualified nonprofit **and/or a political subdivision**



1405 – 1st Avenue North, Grand Forks, ND 58203
(701)746-2545(office) (701)787-9437(direct) (701)740-6738(cell)
(701)746-2548(fax) TDD 711 tnhanson@grandforksgov.com



2.4

Note: To facilitate the development of affordable housing, a housing authority may create an entity such as an LLC or an LP as the ultimate owner although the housing authority retains controlling or management interest of said housing project.

Thank you in advance for you favorable consideration of HB 1070 and the desired amendments and Thank You for all you do.

Respectfully submitted,

Terry Hanson
Executive Director

1.
HB 1070
4.9.15

Nonprofit Submitting Info	Project Name	non-profit or political subdivision documents
Carson Development Association	Carson Development Association	501(c)(4)
Grand Forks Community Homes, Inc	Community Homes I, II, III	501(c)(4)
Forman Housing Association	Forman Housing	501(c)(4)
Grand Forks Housing Authority	Aneta Homes Inc. Continental Homes	501(c)(4) a tax return provided 501(c)(4) Continental Homes
Bowbells Coteau du Moraine Sr Cit Ret Ctr	Coteau du Moraine A B & C	501(c)(4)
Makoti Housing Corp.	Makoti Housing	501(c)(4)
Milnor Community Housing	Milnor Community Housing	501(c)(4)
Page Housing Development	Page Manor	501(c)(4)
Rutland Housing Inc	Rutland Housing	501(c)(4) per Kathy @ RD
Tolna Improvement Assoc	Tolna Improvement Assoc	501(c)(4)
Velva Rental Housing Inc	Velva Rental Housing	501(c)(4)
Wildrose Housing	Wildrose Housing	501(c)(4)

Can make a contribution & deduct here but can't here

not getting individual contributions all come thru govt.

Public Entity

Teamsters Union in GO's

no for profit involved - no tax credits used.

try to allow C4's - managed the same.

- non profit
- same Bd. & church members

make it same as section 42 - same as non-profit entity

allow the C4 to pay less taxes - in Aneta by 2130's

They pay an assessed value for units. w/ this change the taxes are paid on revenue collected less utilities

57-02-08-8

57-08-02-43
reads if you are a non-profit & provide housing to are exempt. only @ end del the law restrict C4's

many set up to not solicit from general public - that's why they set up as a C4