



March 4, 2025

The Honorable Stephen Casey
Chair, House Committee on Municipal Government & Housing
Rhode Island State House
Providence, RI 02903

Re: Opposition to House bill H5236, *Act Relating to Taxation – Levy and Assessment of Local Taxes*

Dear Chair Casey, First Vice Chair Fogarty, Second Vice Chair Speakman and distinguished committee members:

Rhode Island Housing and Mortgage Finance Corporation ("RIHousing") respectfully opposes House bill 5236, *Act Relating to Taxation – Levy and Assessment of Local Taxes*. This bill would modify Rhode Island General Laws section 44-5-13.11 to require that any residential property that is financed under the HUD 202 or 811 program or project-based Section 8 housing and that is utilizing an operating cost basis for federal reimbursement, shall be subject to a tax that equals 12% of the property's previous year's gross scheduled rental income.

Under current law, all real estate must be assessed at its "full and fair cash value." See R.I. Gen. Laws § 44-5-12(a). Rhode Island courts have consistently held that in determining the "full and fair cash value" of a deed-restricted affordable multi-family housing property, the tax assessors must evaluate the effect of the deed restrictions on the value of the property. These deed restrictions typically limit the maximum rents that can be charged, resulting in net income that is appreciably lower than comparable, unrestricted properties.

Rhode Island General Laws section 44-5-13.11 currently provides that rent-restricted residential properties that have been issued an occupancy permit on or after January 1, 1995 be taxed at a rate not to exceed 8% of the property's previous year's gross scheduled rental income. This statute was enacted by the General Assembly in response to several court cases holding that deed-restricted properties should not be taxed as if they were unrestricted market-rate housing, because the deed restrictions limit their ability to raise rents, therefore reducing the value of these properties. This statute introduced uniformity into the assessment of deed restricted properties statewide, and relieved assessors from the need to evaluate the specific provisions of each deed restriction to determine its impact on the value of the property.

House bill 5236 would increase the tax rate to 12% of the previous year's gross scheduled rent (a 50% tax increase) for properties that are part of the federal Section 202, Section 811 or project-based Section 8 program and which are "utilizing an operating cost basis for reimbursement". These programs serve some of the most vulnerable populations: seniors, disabled individuals and extremely low-income households, and receive rental assistance through the U.S. Department of Housing and Urban Development (HUD) to pay the difference between what these households can afford to pay for rent and the cost to operate the development.

It is not entirely clear what is meant by "utilizing an operating cost basis for reimbursement". Typically rent adjustments for Section 202 and Section 8 developments are established through HUD's publication of annual operating cost adjustment factors (OCAFs). Covered developments can instead request a budget-based rent increase to address increased operating costs although this is rarely attempted by developments and even more



rarely approved by HUD. With the federal government currently contemplating draconian cuts to federal agency staffing and programs, it is extremely unlikely that any request to increase rents in these developments beyond the levels set by OCAF would be approved by HUD.

RIHousing understands that many municipalities are facing financial hardships and are looking for opportunities to increase revenues. However, this bill could threaten the financial stability of existing affordable properties serving vulnerable populations, many of which were underwritten at the 8% tax rate. A tax increase of this magnitude could force developments to make difficult financial decisions in order to fulfill the increased tax obligation such as deferring critical maintenance or reducing services.

For these reasons, we respectfully oppose H5236.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carol Ventura', with a stylized flourish at the end.

Carol Ventura
Executive Director