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## HOUSE BILL NO. 1175

Offered January 24, 2000

A BILL to amend and reenact §§ 15.2-717, 58.1-3378, 58.1-3379, 58.1-3380, and 58.1-3984 of the Code of Virginia, relating to appeals of assessments of real property.

Patrons—Reid, Barlow, Diamonstein, Dudley, Ingram, Louderback, McClure, Melvin, Van Yahres and Wagner

Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-717, 58.1-3378, 58.1-3379, 58.1-3380, and 58.1-3984 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-717. Time in which to contest real property assessments.

Notwithstanding any other provision of law and instead of any other right to apply to court, any person aggrieved by an assessment of real estate made by the department of real estate assessments may apply for relief to the circuit court of the county within one year from December 31 of the year in which such assessment is made. The application shall be before the court when it is filed in the clerk's office. In such proceeding the burden of proof shall be on the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful discrimination has taken place. The proceedings shall be conducted as an action at law before the court, sitting without a jury, and the court shall act with the authority granted by §§ 58.1-3987 and 58.1-3988. *Persons aggrieved by assessments of real property tax may apply for relief in accordance with the processes, requirements, burdens, standards, and limitations of § 58.1-3984, provided that they first make application for correction to the board of equalization, or the department of real estate assessments pursuant to the provisions of § 58.1-3980.*

§ 58.1-3378. Sittings; notices thereof.

Each board of equalization shall sit at and for such time or times as may be necessary to discharge the duties imposed and to exercise the powers conferred by this chapter. Of each sitting public notice shall be given at least ten days beforehand by publication in a newspaper having general circulation in the county or city and, in a county, also by posting the notice at the courthouse and at each voting precinct. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments in such county or city and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage in such real estate assessments. *The board also shall hear complaints that the property is assessed at more than fair market value.*

The governing body of any county or city may provide by ordinance the date by which applications must be made by property owners or lessees for relief. Such date shall not be earlier than thirty days after the termination of the date set by the assessing officer to hear objections to the assessments as provided in § 58.1-3330. If no applications for relief are received by such date, the board of equalization shall be deemed to have discharged its duties. Such governing body may also provide by ordinance the deadline by which all applications must be finally disposed of by the board of equalization. All such deadlines shall be clearly stated on the notice of assessment.

§ 58.1-3379. Hearing complaints and equalizing assessments.

The board shall hear and give consideration to such complaints and *adjust and* equalize such assessments and shall, moreover, be charged with the especial duty of increasing as well as decreasing assessments, whether specific complaint be laid or not, if in its judgment, the same be necessary to equalize and accomplish the ~~end~~ ends that the burden of taxation shall rest equally upon all citizens of such county or city *and that assessments be at fair market value.* The commissioner of the revenue of such county or city shall, when requested, attend the meetings of the board, without additional compensation, and shall call the attention of the board to such inequalities *and under-assessments or over-assessments* in real estate assessments in his county or city as may be known to him. Every board of equalization may go upon and inspect any real estate subject to equalization *or adjustment* by it.

§ 58.1-3380. Taxpayer or local authorities may apply for equalization.

Any taxpayer may apply to the board of equalization for the *adjustment to fair market value* or equalization of his assessment, including errors in acreage, and any county or city through its appointed representative or attorney may apply to the board of equalization to equalize *or to similarly adjust* the

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HB1175

60 assessment of any taxpayer.

61 § 58.1-3984. Application to court to correct erroneous assessments of local levies generally.

62 A. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise  
63 specially provided by law, (i) within three years from the last day of the tax year for which any such  
64 assessment is made, (ii) within one year from the date of the assessment, (iii) within one year from the  
65 date of the Tax Commissioner's final determination under § 58.1-3703.1 A 5 or § 58.1-3983.1 D, or (iv)  
66 within one year from the date of the final determination under § 58.1-3981, whichever is later, apply for  
67 relief to the circuit court of the county or city wherein such assessment was made. The application shall  
68 be before the court when it is filed in the clerk's office. In such proceeding the burden of proof shall be  
69 upon the taxpayer to show that the property in question is valued at more than its fair market value or  
70 that the assessment is not uniform in its application, or that the assessment is otherwise invalid or  
71 illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful  
72 discrimination has been made. The proceedings shall be conducted as an action at law before the court,  
73 sitting without a jury. The county or city attorney, or if none, the attorney for the Commonwealth, shall  
74 defend the application.

75 *B. The court shall not consider any application for relief with respect to the fair market value of real*  
76 *property unless the applicant or other appropriate party has first complained to the board of*  
77 *equalization or, pursuant to § 58.1-3980, made an application for correction to the commissioner of*  
78 *revenue or other appropriate official with respect to such valuation matters. In such cases, there shall*  
79 *be a presumption that the valuation determined by the board of equalization or the assessor is correct,*  
80 *which shall be overcome if the appealing party produces substantial evidence, grounded on objective*  
81 *data and sound theory, that the property has been overvalued. If the presumption is overcome, the*  
82 *burden shall be on the appealing party to show by a preponderance of the evidence that the assessment*  
83 *is not at fair market value. In other respects, the application shall be heard in accordance with the*  
84 *provisions of subsection A, above.*

85 ~~B~~C. In the event it comes or is brought to the attention of the commissioner of the revenue of the  
86 locality that the assessment of any tax is improper or is based on obvious error and should be corrected  
87 in order that the ends of justice may be served, and he is not able to correct it under § 58.1-3981, the  
88 commissioner of the revenue shall apply to the appropriate court, in the manner herein provided for  
89 relief of the taxpayer. Such application may include a petition for relief for any of several taxpayers.