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HOUSE BILL NO. 751

Offered January 21, 2000

A BILL to amend and reenact §§ 58.1-3128, 58.1-3921, and 58.1-3958 of the Code of Virginia, relating to the collection of taxes and other debts.

Patron—Howell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3128, 58.1-3921, and 58.1-3958 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3128. Power to summon taxpayers and other persons; penalty.

A. The treasurer may, for the purpose of collecting all taxes due, summon the taxpayer or any other person to appear before him at his office, to answer, under oath, questions touching the tax liability of any and all taxpayers and to produce documents relating to such tax liability, either or both. For the purposes of administering this section, treasurers and their deputies may administer oaths.

B. Any person who refuses to answer, under oath, questions touching any person's tax liability shall be deemed guilty of a Class 4 misdemeanor. Each day's refusal to answer such questions shall constitute a separate offense. Any court of competent jurisdiction may, upon the application of the treasurer or his deputy, compel the compliance of a taxpayer summoned or required to produce documents as required by this section.

C. Every writ, warrant, notice, summons or other process the treasurer is authorized to issue pursuant to general or local law ~~shall may be served by the treasurer, or his deputy or designee, or may be directed to the sheriff to be served pursuant to § 8.01-292 or by the treasurer or his deputy or designee,~~ and ~~shall be~~ executed and returned in like manner as the civil process of a court of competent jurisdiction.

§ 58.1-3921. Treasurer to make out lists of uncollectable taxes and delinquents.

The treasurer, after ascertaining which of the taxes and levies assessed at any time in his county or city have not been collected, shall, within sixty days of the end of the fiscal year, make out lists as follows:

1. A list of real estate on the commissioner's land book improperly placed thereon or not ascertainable, with the amount of taxes charged thereon.

2. A list of other real estate which is delinquent for the nonpayment of the taxes thereon. This list shall not include any taxes listed under subdivision 4 or 5 of this section.

3. A list of such of the taxes assessed on tangible personal property, machinery and tools and merchants' capital, and other subjects of local taxation, other than real estate, as he was unable to collect which are delinquent. This list shall not include any taxes listed under subdivision 4 or 5 of this section.

4. A list of the uncollected taxes amounting to less than ~~five~~ *twenty* dollars each for which no bills were sent under § 58.1-3912.

5. A list of uncollected balances of previously billed taxes amounting to less than ~~five~~ *twenty* dollars each as to which the treasurer has determined that the costs of collecting such balances would exceed the amount recoverable, provided that the treasurer shall not include on such list any balance with respect to which he has reason to believe that the taxpayer has purposely paid less than the amount due and owing.

Notwithstanding any other provision of this title, no tax or levy which has been discharged or otherwise rendered legally uncollectable as to a taxpayer liable upon it in a proceeding under the United States Bankruptcy Code (Title 11 of the United States Code) shall be considered delinquent with respect to that taxpayer on and after the date such obligation is discharged or otherwise rendered legally uncollectable, and the treasurer shall not include any such discharged or uncollectable obligation in any list required to be prepared pursuant to this section. Any such discharged or uncollectable obligation shall be stricken from the books of the treasurer as of the date the obligation is discharged or otherwise rendered uncollectable, and the treasurer thereafter shall have no further duty to collect such tax or levy.

§ 58.1-3958. Payment of administrative costs, etc.

The governing body of any county, city or town may impose ~~on delinquent taxpayers, upon each person chargeable with delinquent taxes or other delinquent debts,~~ fees to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed twenty percent of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest, and shall not exceed twenty dollars

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HB751

60 for taxes *or other debts* collected subsequent to the filing of a warrant or other appropriate legal
61 document but prior to judgment, and twenty-five dollars for taxes *or other debts* collected subsequent to
62 judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative
63 costs shall be \$150 or twenty-five percent of the cost, whichever is less; however, in no event shall the
64 fee be less than twenty-five dollars.

65 No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures
66 prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the
67 appeal is filed within ninety days of the date of the assessment, and for thirty days after the date of the
68 final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude
69 the assessment or refund, following the final determination of such appeal, of such interest as otherwise
70 may be provided by general law as to that portion of a tax bill which has remained unpaid or was
71 overpaid during the pendency of such appeal and is determined in such appeal to be properly due and
72 owing.