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HOUSE BILL NO. 1115

Offered January 24, 2000

A BILL to amend and reenact §§ 58.1-3343, 58.1-3930, 58.1-3932, and 58.1-3959 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3713.5, relating to liens for unpaid severance taxes.

Patrons—Stump; Senator: Puckett

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3343, 58.1-3930, 58.1-3932, and 58.1-3959 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 58.1-3713.5 as follows:

§ 58.1-3343. Effect of lien on certain real estate jointly owned.

The lien on real estate owned by more than one person as tenants in common, joint tenants or otherwise for the payment of all prior, present and subsequent taxes and levies or assessments thereof, *including any tax, levy, or assessment authorized under §§ 58.1-3712, 58.1-3713, or 58.1-3713.4,* shall not be impaired if such real estate was or is assessed in the name of one of such owners with the notation, "and another," or "and others," or "and wife," or "and husband," or the appropriate abbreviations of such words, or their legal equivalents, so as to indicate that the real estate was or is owned by more than one person.

§ 58.1-3713.5. Lien on real estate and personal property of businesses severing coal and gases.

There shall be a lien, for the payment of the taxes and levies authorized under §§ 58.1-3712, 58.1-3713, and 58.1-3713.4, on the real and personal property owned by persons engaging in the business of severing coal or gases from the earth. Such lien shall be applicable only to the real and personal property located in the county or city in which such persons severed coal or gases from the earth, which is the same county or city to which such persons owe but have not paid the tax authorized under §§ 58.1-3712, 58.1-3713, or 58.1-3713.4. This lien shall be prior to any other lien or encumbrance, with the exception of liens on real estate for the payment of taxes and levies assessed on such real estate. The lien shall continue to be such prior lien until actual payment shall have been made to the proper officer of the taxing authority.

The purchaser at a sale of real estate to which the lien under this section applies shall cause the proceeds of such sale to be applied to the payment of all taxes and levies assessed or due pursuant to §§ 58.1-3712, 58.1-3713, or 58.1-3713.4, the provisions of § 55-59.4 notwithstanding. The words "taxes" and "levies" as used in this section include the penalties and interest accruing on such taxes and levies in pursuance of law. The lien imposed hereby shall, in addition to existing remedies for the collection of taxes and levies, be enforceable in the same manner as provided in Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of this title. There shall be a further lien upon the rents of such real estate whether the same be in money or in kind, for taxes and levies of the current year.

§ 58.1-3930. How liens to be recorded; release of liens.

Liens of delinquent real estate taxes *and all liens described under § 58.1-3713.5* shall be recorded in the office of the treasurer in a book or an approved visible card system to be kept for the purpose and indexed in the names of the persons against whom the taxes on real estate are assessed, or in a computer system approved by the Auditor of Public Accounts. Any officer collecting any such taxes unless otherwise specifically provided by law, shall forthwith transmit such payment to the treasurer, who shall give his receipt therefor and record the payment, thereby releasing the lien. Where such list is kept in a visible card index file, the treasurer may, at the time of entry of the records of payment, remove from the file the cards on which such payments have been noted; and such cards may, on certification by the Auditor of Public Accounts that the same are no longer needed for audit, be destroyed.

§ 58.1-3932. Card system record and index of delinquent real estate in City of Norfolk.

The City of Norfolk is authorized to keep its record of delinquent real estate *and all liens described under § 58.1-3713.5* in the Treasurer's office, using a card system record and index, or such other method approved by the Auditor of Public Accounts.

§ 58.1-3959. Petition to ascertain delinquent taxes; exoneration from lien.

Any person interested in real estate may file a petition in the circuit court of the county or city wherein the assessment of taxes was made, for the purpose of having ascertained any and all delinquent taxes due upon such real estate *or any delinquent taxes imposed under the authority of §§ 58.1-3712,*

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58.1-3713, or 58.1-3713.4. A copy of the petition shall be served upon the county or city attorney, or if there is none, on the attorney for the Commonwealth at least ten days before the date upon which the petition specifies the court shall be asked to hear the petition. The court may refer the question to a commissioner in chancery for report thereon. The court shall enter final judgment determining what, if any, taxes are due upon the real estate, *including any taxes covered by the lien described in § 58.1-3713.5*, mentioned in the petition. Upon the payment of any amount so ascertained by the court, and the costs of the proceeding, the land shall be held free and clear of any such tax lien. No writ tax shall be charged. The clerk shall be entitled to a fee of one dollar which, together with other costs, including such fee as the court may deem proper to allow the commissioner in chancery, shall be paid by the petitioner.