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HOUSE BILL NO. 2124

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 58.1-3133, 58.1-3912, and 58.1-3942 of the Code of Virginia, relating to collection of local taxes.

Patrons—Johnson, Kilgore and Parrish

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3133, 58.1-3912, and 58.1-3942 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3133. Treasurers may deduct any charges due from party in whose favor the warrant is drawn. In the payment of any warrants lawfully drawn, the treasurer paying such warrants may first deduct all taxes *and other charges* due from the party in whose favor the warrant is drawn. If such warrant is insufficient to pay the entire amount due, then such treasurer shall credit the tax bill by the amount of the warrant.

§ 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties.

A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not later than fourteen days prior to the due date of the taxes, send or cause to be sent by United States mail to each taxpayer assessed with taxes and levies for that year a bill or bills setting forth the amounts due. The treasurer may elect not to send a bill amounting to twenty dollars or less as shown by an assessment book in such treasurer's office. The treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of this section. The failure of any such treasurer to comply with this section shall be a Class 4 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on real estate if, upon certification by the obligee of any note or other evidence of debt secured by a mortgage or deed of trust on such real estate that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the obligee or obligor, a past-due tax bill will be sent to the taxpayer. No governing body shall publish the name of a taxpayer in connection with a tax debt for which a bill was not sent, without first sending a notice of deficiency to his last known address at least two weeks before such publication.

B. The governing body of any county, city or town may attach to or mail with all real estate and tangible personal property tax bills, prepared for taxpayers in such locality, information indicating how the tax rate charged upon such property and revenue derived therefrom is apportioned among the various services and governmental functions provided by the locality.

C. Notwithstanding the provisions of subsection A of this section, in any county which has adopted the urban county executive form of government, and in any county contiguous thereto which has adopted the county executive form of government, tangible personal property tax bills shall be mailed not later than thirty days prior to the due date of such taxes.

D. Notwithstanding the provisions of subsection A of this section, any county and town, the governing bodies of which mutually agree, shall be allowed to send, to each taxpayer assessed with taxes, by United States mail no later than fourteen days prior to the due date of the taxes, a single real property tax bill and a single tangible personal property tax bill.

E. Beginning with tax year 1999, in addition to all other information currently appearing on tangible personal property tax bills, each such bill shall state on its face (i) whether the vehicle is a qualifying vehicle as defined in § 58.1-3523; (ii) a deduction for the amount to be paid by the Commonwealth as determined by § 58.1-3524; (iii) the vehicle's registration number pursuant to § 46.2-604; (iv) the amount of tangible personal property tax levied on the vehicle; and (v) if the locality prorate personal property tax pursuant to § 58.1-3516, the number of months for which a bill is being sent.

F. Beginning with tax year 1999 and through the end of tax year 2002, the treasurer shall include a statement, prepared by the Department, with or as part of the tangible personal property tax bills for such qualifying vehicles. The statement shall explain how the deduction for the percentage of the reimbursable amount was calculated, how the deduction shall be calculated in future years, and the taxpayer's liability for tangible personal property taxes on qualifying vehicles.

G. *Notwithstanding the provisions of subsection A, the treasurer may, with the written consent of the taxpayer, convey any tax bill by electronic means chosen by the taxpayer, including, without limitation, facsimile transmission or electronic mail (E-mail), in lieu of posting such bill by first-class mail. The*

59 *treasurer conveying a bill by means authorized in this subsection shall maintain a copy of the bill, in*
60 *written form or electronic media, reflecting the date of transmission, until such time as the bill has been*
61 *satisfied or otherwise removed from the treasurer's books by operation of law. Transmission of a bill*
62 *pursuant to this subsection shall have the same force and effect for all purposes arising under this title*
63 *as mailing to the taxpayer by first-class mail on the date of transmission.*

64 § 58.1-3942. Security interests no bar to distress.

65 A. No security interest in goods or chattels shall prevent the same from being distrained and sold for
66 taxes or levies assessed thereon, no matter in whose possession they may be found.

67 B. Prior to such sale for distress, the treasurer, sheriff, constable or collector, or other party
68 conducting the sale shall give notice to any secured party of record as his name and address shall appear
69 on the records of the Department of Motor Vehicles, the Department of Game and Inland Fisheries, the
70 State Corporation Commission, or in the office of the clerk of any circuit court where the debtor has
71 resided to the knowledge of the party to whom the tax is owing during a one-year period prior to the
72 sale. Notice shall also be given to any secured party of whom the party to whom the tax is owing shall
73 have knowledge.

74 C. A security interest perfected prior to any distraint for taxes shall have priority over all taxes,
75 except those specifically assessed either per item or in bulk against the goods and chattels distrained.
76 Taxes specifically assessed either per item or in bulk against the goods and chattels distrained shall
77 *constitute a lien against the property so assessed and shall* have priority over all security interests. For
78 purposes of this section, a merchant's capital tax shall be deemed to be specifically assessed against all
79 inventory in the merchant's possession at the time of distraint, or at the time such inventory is
80 repossessed by the holder of a security interest therein. For purposes of this section, taxes specifically
81 assessed in bulk means an assessment against the specific class of property distrained.

82 D. The title conveyed to the purchaser of goods and chattels at a sale for taxes specifically assessed
83 either per item or in bulk against such goods and chattels distrained shall be free of all claims of any
84 creditor, including the claims of any secured party of record, provided that notice was given to such
85 creditor as required by subsection B. The person conducting the sale shall apply the proceeds of the sale
86 first to unpaid taxes and then the claims of secured parties of record, in the order of their priority,
87 before delivering any sum remaining to the person or estate assessed with taxes.

88 E. Notwithstanding any provision of this section to the contrary, no highway vehicle as defined in
89 § 58.1-2101 purchased by a bona fide purchaser for value from the person or estate assessed with taxes
90 shall be liable to levy or distress for such taxes unless the purchaser knew at the time of purchase that
91 the taxes had been specifically assessed against such vehicle.

92 **2. That the amendment to § 58.1-3942 effected by this act is declaratory of existing law.**