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HOUSE BILL NO. 2503

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact §§ 15.2-717, 58.1-3256, 58.1-3260, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380 and 58.1-3384 of the Code of Virginia; to amend and reenact § 2 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of Virginia) as amended by Chapter 339 of the Acts of Assembly of 1958; to amend and reenact § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of Virginia), as amended by Chapter 422 of the Acts of Assembly of 1950, and as amended by Chapter 339 of the Acts of Assembly of 1958; relating to appeals of real estate assessments.

Patrons—Griffith, Joannou, Johnson, Louderback, Melvin and Parrish; Senators: Bolling and Hanger

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-717, 58.1-3256, 58.1-3260, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380 and 58.1-3384 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~~ 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 timeframe as provided by general law pursuant to § 58.1-3984. 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.

§ 58.1-3256. Reassessment in towns; appeals of assessments.

In any incorporated town there may be for town taxation and debt limitation, a general reassessment of the real estate in any such town in the year designated, and every fourth year thereafter, that the council of such town shall declare by ordinance or resolution the necessity therefor. Every such general reassessment of real estate in any such town shall be made by a board of assessors consisting of three resident freeholders, who hold no official office or position with the town government, appointed by the council of such town for each general reassessment and the compensation of the person so designated shall be prescribed by the council and paid out of the town treasury. The assessors so designated shall assess the property in accordance with the general law and Constitution of Virginia. If for any cause the board is unable to complete an assessment within the year for which it is appointed, the council shall extend the time therefor for three months. Any vacancy in the membership of the board shall be filled by the council within thirty days after the occurrence thereof, but such vacancy shall not invalidate any assessment. The assessments so made shall be open for public inspection after notice of such inspection shall have been advertised in a newspaper of general circulation within the town at least five days prior to such date or dates of inspection. Within thirty days after the final date of inspection the assessors shall file the completed reassessments in the office of the town clerk and at the same time forward to the Department of Taxation a copy of the recapitulation sheets of such assessments.

Any person, firm, or corporation claiming to be aggrieved by any assessment may, within thirty days after the filing of reassessments in the office of the town clerk, apply to the town board of equalization for a correction of such assessment by filing with the town clerk a written statement setting forth his grievances. The board of equalization of every such town shall, within thirty days of the filing of such complaint, fix a date for a hearing on such application and, after giving the applicant at least ten days' notice of the time fixed, shall hear such evidence as may be introduced by interested parties and correct the assessment by increasing or reducing the same. The circuit court having jurisdiction within the town shall, in each tax year immediately following the year in which a general reassessment was conducted, appoint for such town a board of equalization of real estate assessments made up of three to five citizens of the town. *Any such town board of equalization shall be subject to the same member*

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59 *composition requirements and limits on terms of service as provided for boards of equalization pursuant*
60 *to § 58.1-3374. In addition, at least once in every 4 years of service on a town board of equalization,*
61 *each member of such board shall take continuing education instruction provided by the Tax*
62 *Commissioner pursuant to § 58.1-206. In equalizing real property tax assessments, such board of*
63 *equalization shall hear complaints, including but not limited to, that real property is assessed at more*
64 *than fair market value. In hearing complaints, the board shall establish the value of real property as*
65 *provided in § 58.1-3378. The provisions of § 58.1-3379 shall apply to all complaints heard by any town*
66 *board of equalization.*

67 Town taxes for each year on real estate subject to reassessment shall be extended on the basis of the
68 last general reassessment made prior to such year subject to such changes as may have been lawfully
69 made. The town tax assessor shall make changes required by new construction, subdivision and disaster
70 loss. The council of any town may provide by ordinance that it will have a general reassessment of real
71 estate in the town in the year designated by the town council and every year thereafter. The town
72 council may declare the necessity for such general reassessment by such ordinance, but in all other
73 respects this section shall be controlling. No county or district levies shall be extended on any
74 assessments made under the provisions of this section.

75 Any town which has failed to conduct a general reassessment within five years shall use only those
76 assessed values assigned by the county.

77 § 58.1-3260. Acts authorizing, in certain cities and counties, provision for the annual general
78 reassessment of real estate and equalization of assessments, by continuing assessors, conferring upon
79 assessors certain duties of commissioners of the revenue, etc.

80 The following acts are continued in effect *as amended from time to time*:

81 1. Chapter 261 of the Acts of Assembly of 1936, approved March 25, 1936, as amended by Chapter
82 64 of the Acts of Assembly of 1938, approved March 4, 1938, Chapter 234 of the Acts of Assembly of
83 1942, approved March 14, 1942, Chapter 422 of the Acts of Assembly of 1950, ~~and~~ Chapter 339 of the
84 Acts of Assembly of 1958, *and as amended by the 2003 regular Session of the General Assembly*,
85 authorizing provision for the annual general reassessment of real estate and the election of assessors in
86 cities of more than 175,000; transferring to the assessors in such cities the duties in regard to the
87 assessment of real estate formerly devolved upon the commissioners of the revenue; repealing all
88 provisions of law relating to the equalization of real estate assessments insofar as they applied to such
89 cities; and relating to other connected matters.

90 2. Chapter 29 of the Acts of Assembly of 1947, approved January 29, 1947, authorizing provision
91 for the annual general reassessment of real estate, the appointment of assessors, and the appointment of
92 boards of review, in cities of not less than 125,000 nor more than 190,000; conferring on such boards of
93 review the powers exercised by boards of equalization; and relating to other connected matters.

94 3. Chapter 211 of the Acts of Assembly of 1944, amended by Chapter 167 of the Acts of Assembly
95 of 1946 (Repealed by Acts of Assembly of 1952, Chapter 636).

96 4. Chapter 65 of the Acts of Assembly of 1944, approved February 26, 1944, as amended by Chapter
97 80 of the Acts of Assembly of 1954, and Chapter 624 of the Acts of Assembly of 1968, authorizing, in
98 cities of not less than 40,000 nor more than 50,000, provision for the general reassessment of real estate
99 and equalization of assessments every 1, 2, 3 or 4 years, and the appointment of assessors to perform
100 these duties; conferring on the assessors certain duties formerly imposed upon commissioners of the
101 revenue; and relating to other connected matters.

102 5. Chapter 17 of the Acts of Assembly of 1947, approved January 29, 1947, as amended by Chapter
103 29 of the Acts of Assembly of 1952, Ex. Sess., authorizing, in cities having a population of not less
104 than 30,000 nor more than 31,000, provision for the annual general reassessment of real estate and
105 equalization of assessments, and the appointment of assessors to perform these duties; conferring on the
106 assessors certain duties formerly imposed upon commissioners of the revenue; and relating to other
107 connected matters.

108 6. Chapter 146 of the Acts of Assembly of 1942, approved March 9, 1942, authorizing, in any city
109 adjoining a county having a density of more than 1,000 per square mile, provision for the annual
110 general reassessment of real estate and equalization of assessments, and the appointment of assessors to
111 perform these duties; conferring on the assessors certain duties formerly imposed upon commissioners of
112 the revenue; and relating to other connected matters.

113 7. Chapter 189 of the Acts of Assembly of 1946, approved March 15, 1946, as amended by Chapter
114 325 of the Acts of Assembly of 1950, authorizing, in any county adjoining a county having a population
115 density of 1,000 or more per square mile, provision for the annual general reassessment of real estate
116 and equalization of assessments, and the appointment of assessors to perform these duties; conferring on
117 the assessors certain duties formerly imposed upon commissioners of the revenue; and relating to other
118 connected matters.

119 8. Chapter 237 of the Acts of Assembly of 1942, amended by Chapter 44 of the Acts of Assembly
120 of 1946 and Chapter 59 of the Acts of Assembly of 1948.

9. Chapter 345 of the Acts of Assembly of 1942, approved March 31, 1942, authorizing, in any county adjoining a city of more than 190,000, and any county with an area of less than seventy square miles of highland, provision for the annual general reassessment of real estate and the equalization of assessments, and the appointment of assessors to perform such duties; conferring upon the assessors certain duties imposed by general law on commissioners of the revenue; and relating to other connected matters.

10. Chapter 237 of the Acts of Assembly of 1946, approved March 25, 1946, authorizing, in counties having an area of more than 135 square miles but less than 152 square miles, and a population of more than 4,000 but less than 8,000, provision for boards for the annual general reassessment of real estate and equalization of assessments; conferring on the assessors certain duties imposed by general law upon commissioners of the revenue; and relating to other connected matters.

11. Chapter 85 of the Acts of Assembly of 1948, approved March 3, 1948, codified in Michie Supplement 1948 as Tax Code § 348b, as amended by Chapter 266 of the Acts of Assembly of 1952, providing, in counties of not more than 30,000 adjoining cities of not less than 100,000 and not more than 150,000, for continuing boards of assessors to meet annually and perform the duties imposed upon boards of assessors of real estate assessments by general law, and relating to other connected matters, is incorporated in this Code by this reference.

§ 58.1-3374. Qualifications of members; vacancies; maximum terms.

Except as provided in § 58.1-3371 or § 58.1-3373, every board of equalization shall be composed of not less than three nor more than five members who shall be freeholders in the county or city for which they are to serve and who shall be selected by the court or judge from the citizens of the county or city. All members of every board of equalization shall be freeholders in the county or city for which they are to serve and shall be selected from the citizens of the county or city. Appointments to the board of equalization shall be broadly representative of the community. Thirty percent of the members of the board shall be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals, and at least one such member shall sit in all cases involving commercial, industrial or multi-family residential property, unless waived by the taxpayer. No member of the board of assessors shall be eligible for appointment to the board of equalization for the same reassessment. In order to be eligible for appointment, each prospective member of such board shall attend and participate in the basic course of instruction given by the Department of Taxation under § 58.1-206. In addition, at least once in every 4 years of service on a board of equalization, each member of a board of equalization shall take continuing education instruction provided by the Tax Commissioner pursuant to § 58.1-206. Any vacancy occurring on any board of equalization shall be filled for the unexpired term by the authority making the original appointment.

In no case shall a person serve as a member of a board of equalization for more than 9 consecutive years, and upon the expiration of such 9 consecutive years such person shall not be eligible for reappointment for a period of 3 years.

§ 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 public library, voting precinct or both. 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 real property is assessed at more than fair market value. Except as otherwise provided by the Code of Virginia:

1. The fair market value of real property shall be established by the board as of January 1 of the applicable year; or

2. If a county or city has adopted July 1 as its tax day for real property pursuant to § 58.1-3011, then, for other than public service corporation property, the fair market value of real property shall be established by the board as of July 1 of the applicable year.

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.

A. The board shall hear and give consideration to such complaints and *shall 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 that the burden of taxation shall rest equally upon all citizens of such county or city.

B. *In all cases brought before the board, there shall be a presumption that the valuation determined by the assessor is correct, and the board shall be advised that it is not necessary that the taxpayer show that the assessment is a result of manifest error or disregard of controlling evidence, but rather that the standard of proof is in accordance with subsection C.*

C. *The burden of proof shall be upon a taxpayer seeking relief to show that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. In order to receive relief, the taxpayer must produce substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in accordance with generally accepted appraisal practice.*

D. The commissioner of the revenue *or other local assessing officer* 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 in real estate assessments in his county or city as may be known to him.

E. Every board of equalization may go upon and inspect any real estate subject to *adjustment or* equalization by it.

F. *The burdens and standards set out in subsections B and C shall apply in hearings before the board and nothing contained in this section shall be construed to change or have any effect upon the burdens and standards applicable to applications to correct erroneous assessments filed with circuit courts pursuant to §§ 58.1-3984 through 58.1-3987.*

§ 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 and* 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 *adjust an assessment of real property to its fair market value and to* equalize the assessment of any taxpayer.

§ 58.1-3384. Minutes and copies of orders.

The board shall keep minutes of its meetings and enter therein all orders made and transmit promptly copies of such orders as relate to the increase or decrease of assessments to the taxpayer and commissioner of the revenue. *The orders shall be recorded on forms prepared by the Tax Commissioner and provided to localities by the Department of Taxation or on forms prepared by the board that contain, at a minimum, all the information required on the forms prepared by the Tax Commissioner.*

2. That § 2 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of Virginia) as amended by Chapter 339 of the Acts of Assembly of 1958 is amended and reenacted as follows:

§ 2. All duties now devolved upon the commissioner of the revenue with respect to the assessment of real estate and making up the land books in such cities, shall be transferred to and devolved upon the assessor or assessors to be appointed pursuant to this act, including the duty and power to assess omitted real estate taxes for the then current year or any tax year of the three tax years last past as provided in § 58.1-3904 of the Code of Virginia. All such real estate shall be assessed at its fair market value, and taxes for each year on such real estate shall be extended by such assessor or assessors on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made. The assessor or assessors, upon completion of each annual assessment and final recordation thereof in the land book, shall certify thereon in writing on oath that all real estate subject to taxation by such cities has been assessed by him or them at the fair market value thereof and that there are no errors on the face of the land book. In case of the absence, incapacity, death, resignation or removal from office of the assessor or assessors or failure, refusal or neglect so to do, and because thereof, the land book is not so certified when or after such assessment is finally recorded therein, the governing body of such cities shall designate a person in the office of the assessor or assessors who can make such certification on oath to make the certification within thirty days from the final recordation of such annual assessment in the land book.

3. That § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of Virginia), as amended by Chapter 422 of the Acts of Assembly of 1950, and as amended by Chapter 339 of the Acts of Assembly of 1958, is amended and reenacted as follows:

§ 3. The ~~corporation or~~ *hustings circuit* court of any such city or the judge thereof in vacation

shall before the first day of July in each year appoint for such city a board of review of real estate assessments, to be composed of three members, who shall be freeholders of the city for which they serve, any two of whom shall have authority to act for the board. One member of the board shall be a real estate broker as defined by § ~~54-730~~ *54.1-2100* of the Code of Virginia, one member of the board shall be a contractor as defined in § ~~58-297~~ *58.1-3714* of the Code of Virginia, and one member of the board shall be a person who shall have had at least five years' experience in appraising the value of real estate. The terms of such members shall commence on the date of their appointment and shall expire on the thirtieth day of November of the year in which they are appointed unless such terms are extended. The *circuit* court or the judge thereof in vacation may extend the terms of the members of the said board of review and shall fill any vacancy therein for the unexpired term. The members of the board shall receive per diem compensation for the time actually engaged in the duties of the board, to be fixed by the *circuit* court or the judge thereof in vacation and to be paid out of the treasury of such city; provided, however, the said *circuit* court or judge may limit the per diem compensation to such number of days as in its or his judgment is sufficient for the completion of the work of the board. Such board of review shall have and may exercise the power to review any assessment of real estate made by the assessor or assessors appointed pursuant to § 1 of this chapter in the year in which they serve upon the complaint of the owner of the real estate, and to change, revise, correct and amend any such assessment, and to that end shall have all the powers conferred upon the said assessor or assessors. The board may adopt any regulations providing for the oral presentation, without formal petition or other pleadings or request for review, and looking to the further facilitation and simplification of proceedings before the board. The assessor or one of the assessors appointed pursuant to § 1 of this chapter shall attend and participate in the proceedings of, but shall not vote in, the meetings of the board. Any person or any such city aggrieved by any assessment made by the assessor or assessors appointed pursuant to § 1 of this chapter or by the board of review may apply for relief to the ~~corporation or hustings circuit~~ court of such city within one year from the thirty-first day of ~~December of the year in which such assessment is made~~ *the timeframe as provided by general law pursuant to § 58.1-3984 of the Code of Virginia*, and the procedure in such cases shall be in the manner prescribed by §§ ~~58-1145 to 58-1151~~ *58.1-3984 through 58.1-3989*, both inclusive, of the Code of Virginia.

4. That the provisions of this act shall apply to complaints filed with a board of equalization beginning with each county's, city's and town's first tax year commencing on or after January 1, 2004.

5. That the Tax Commissioner, pursuant to § 58.1-3384, shall, by no later than January 1, 2004, design order forms to be used by boards of equalization. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the development of such order forms.

6. That the Tax Commissioner shall, by no later than January 1, 2004, update his basic course of instruction for board of equalization members to incorporate the provisions of this act, including, but not limited to, what constitutes evidence of generally accepted appraisal practice and fair market value.

7. That the Tax Commissioner shall monitor the results of appeals of assessments of real property to boards of equalization and shall provide a report to the General Assembly by October 1, 2006, and such report shall be posted on the General Assembly's website. For purposes of such report, every board of equalization shall provide, upon request of the Tax Commissioner, information as necessary to evaluate the impact of the provisions of this act. The Tax Commissioner shall meet with interested parties to determine the elements to be included in such report to the General Assembly.

In addition, each board of equalization shall prepare an annual written report of their actions and shall make such report available, upon request, to the public, the local governing body of the respective county, city, or town and to the Tax Commissioner.

8. Any member of a board of equalization who, as of January 1, 2004, has not met continuing education requirements as provided under this act shall take such educational courses as soon as practical.

9. That, subject to the provisions of the tenth enactment clause of this act, any current member of a board of equalization who has served at least nine consecutive years immediately prior to January 1, 2004, shall be allowed to complete his current term of service, and upon completion of such term, shall not be eligible for reappointment for a period of three years.

10. That in any county, city or town where less than thirty percent of the members of the board of equalization are commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals, the appointing authority shall ensure that at least one member of such board so qualifies no later than January 1, 2004, and shall thereafter,

305 as soon as possible, in accordance with prevailing law, change the membership of such board of
306 equalization to meet this thirty percent requirement.
307 11. That in any locality in which, prior to July 1, 2003, a person aggrieved by a real estate tax
308 assessment was required to make an application for correction of such assessment to the board of
309 equalization of such locality and in which the board was required to make a final determination
310 on such application, both as a prerequisite for jurisdiction of the circuit court of such locality in
311 any application for relief of such assessment, such requirements shall continue in effect in such
312 locality as a prerequisite for jurisdiction of the circuit court.
313 12. That the fifth, sixth, and tenth enactments of this act are effective July 1, 2003. All other
314 provisions of this act are effective January 1, 2004.