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**HOUSE BILL NO. 602**

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact §§ 58.1-3379 and 58.1-3984 of the Code of Virginia, relating to appeal of real estate assessments.*

Patrons—O'Bannon, Albo, Athey, Byron, Carrico, Cole, Crockett-Stark, Frederick, Gear, Gilbert, Griffith, Hamilton, Hogan, Howell, W.J., Hugo, Janis, Kilgore, Landes, Lingamfelter, Loupassi, Marshall, R.G., Nixon, Oder, Pogge, Purkey, Putney, Rust, Saxman, Sherwood and Tata

Referred to Committee on Finance

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

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

§ 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 *except those cases under subdivision C 2*, 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. ~~1. The~~ *Except as provided in subdivision 2, 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. Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice.

2. *In any case in which an assessment of property is greater than 20% more than the previous assessment, the burden of proof shall be upon the commissioner of revenue or other local assessing official to show that the assessment was accurately computed according to generally accepted appraisal practices. That portion of the assessment attributable to (i) the construction of new or other improvements, (ii) an increase in the amount of property, or (iii) rezoning, shall not be used in calculating the 20% threshold.*

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.

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

A. *1. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise specially provided by law (including, but not limited to, as provided under (i) § 15.2-717 and (ii) § 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), as amended by Chapter 422 of the Acts of Assembly of 1950, as amended by Chapter 339 of the Acts of Assembly of 1958, and as amended by the 2003 Regular Session of the General Assembly), (a) within three years from the last day of the tax year for which any such assessment is made, (b) within one year from the date of the assessment, (c) within one year from the date of the Tax Commissioner's final determination under § 58.1-3703.1 A 5 or § 58.1-3983.1 D, or (d) within one year from the date of the final determination under § 58.1-3981, whichever is later, apply for relief to the circuit court of the county or city wherein such assessment was made. The application shall be before the court when it is filed in the clerk's office. ~~It~~ Except as*

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HB602

57 *provided in subdivision 2, in such proceeding the burden of proof shall be upon the taxpayer to show*  
58 *that the property in question is valued at more than its fair market value or that the assessment is not*  
59 *uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be*  
60 *necessary for the taxpayer to show that intentional, systematic and willful discrimination has been made.*  
61 *The proceedings shall be conducted as an action at law before the court, sitting without a jury. The*  
62 *county or city attorney, or if none, the attorney for the Commonwealth, shall defend the application.*

63 *2. In any case in which an assessment of property is greater than 20% more than the previous*  
64 *assessment, the burden of proof shall be upon the commissioner of revenue or other local assessing*  
65 *official to show that the assessment was accurately computed according to generally accepted appraisal*  
66 *practices. That portion of the assessment attributable to (i) the construction of new or other*  
67 *improvements, (ii) an increase in the amount of property, or (iii) rezoning, shall not be used in*  
68 *calculating the 20% threshold.*

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