

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 58.1-3258.1, 58.1-3259, 58.1-3295, 58.1-3331, 58.1-3374, and
 3 58.1-3379 of the Code of Virginia, relating to real property tax assessment.

4 [H 430]

5 Approved

6 Be it enacted by the General Assembly of Virginia:

7 1. That §§ 58.1-3258.1, 58.1-3259, 58.1-3295, 58.1-3331, 58.1-3374, and 58.1-3379 of the Code of
 8 Virginia are amended and reenacted as follows:9 § 58.1-3258.1. Certification of supervisors, assessors and appraisers contracted by a locality to
 10 perform assessments.11 A. No supervisor, assessor or appraiser shall contract or offer to contract to perform the assessment
 12 or reassessment of real property for any locality unless he holds a valid certification issued by the
 13 Department.14 B. The Department shall establish requirements for the certification of all supervisors, appraisers and
 15 personnel contracted by a locality to perform the assessment or reassessment of real property located in
 16 the locality. Such requirements shall prescribe qualifications for certification including (i) minimum
 17 education, and training, and experience and combinations thereof, requirements, to include guidance for
 18 conducting appraisals of certain multi-unit real estate under § 58.1-3295 and guidance for following
 19 generally accepted appraisal practices; (ii) minimum levels of experience; and (iii) standards of
 20 conduct. All supervisors, appraisers, and personnel employed or contracted to perform general
 21 assessments shall be required to hold a valid certification issued by the Department.22 C. The Department may establish requirements for continuing education as a prerequisite to renewal
 23 of any certificate issued under this section.

24 § 58.1-3259. Failure of county or city to comply with law on general reassessment of real estate.

25 If any county or city fails to comply with the provisions of this article requiring a general
 26 reassessment of real estate periodically in such county or city by omitting such general reassessment in
 27 the year required by this article, or by failing to comply with the provisions of § 58.1-3201 requiring
 28 assessment at 100 percent fair market value, the Department, on receiving proof of such delinquency,
 29 shall so notify the Comptroller, whereupon the Comptroller shall withhold from such county or city the
 30 payment of its share of the net profits of the operation of the alcoholic beverage control system as
 31 provided for by § 4.1-117 until such time as the provisions of § 58.1-3201 have been complied with in
 32 such county or city. Results of the Tax Department's official assessment sales ratio study showing such
 33 county or city to have a sales assessment ratio lower than 70 percent or higher than 130 percent for the
 34 year a general reassessment or annual assessment is effective shall be prima facie proof that such
 35 locality has failed to assess at 100 percent.36 The Department shall notify the Comptroller to pay over the accumulated profits, less a penalty
 37 charge of eight percent annually, on receipt of the results of an official assessment sales ratio study
 38 showing such county or city to have a sales assessment ratio higher than seventy 70 percent and less
 39 than 130 percent.

40 § 58.1-3295. Assessment of real property; affordable housing.

41 A. Notwithstanding any other provision of law, in determining the fair market value of real property
 42 containing more than four residential units operated in whole or in part as affordable rental housing, in
 43 accordance with the provisions of (i) 26 U.S.C. § 42, 26 U.S.C. § 142(d), 24 CFR § 983, 24 CFR § 236,
 44 24 CFR § 241(f), 24 CFR § 221(d) (3), or any successors thereto; (ii) applicable state law; or (iii) local
 45 ordinances adopted by the locality wherein such real property is located, the duly authorized real estate
 46 assessor shall consider:47 1. The contract rent and the impact of applicable rent restrictions;
 48 2. The actual operating expenses and expenditures and the impact of any such additional expenses or
 49 expenditures; and

50 3. Restrictions on the transfer of title or other restraints on alienation of the real property.

51 The owner of real property containing more than four residential units that is operated in whole or in
 52 part as affordable rental housing in accordance with the definition of affordable rental housing
 53 established by ordinance or resolution of the locality in which the real property is located may make an
 54 application to the locality to have the real property assessed pursuant to this section. The application
 55 shall be granted by the locality if (i) the owner charges rents at levels that meet the locality's definition
 56 of affordable housing and (ii) the real property does not have any pending building code violations at

57 the time of the application.

58 The duly authorized real estate assessor shall also consider evidence presented by the property owner
 59 of other restrictions imposed by law that impact the variables set forth in this subsection.

60 B. Federal or state income tax credits with respect to affordable housing rental property within the
 61 purview of subsection A shall not be considered real property or income attributable to real property.

62 C. For property where only a portion of the units are operated as affordable housing, as defined in
 63 § 42 of the Internal Revenue Code or as required by state law or applicable local ordinance, only the
 64 portion determined to be affordable housing shall be subject to this section.

65 D. *Notwithstanding any other provision in this section or other law, the real property governed by
 66 this section that is generating income as affordable housing shall be assessed using the income
 67 approach based on the property's current use, income restrictions, provisions of any arm's-length
 68 contract including but not limited to restrictions on the transfer of title or other restraints on alienation
 69 of the real property, the requirements of subsection B, and all other provisions of this section.*

70 § 58.1-3331. Public disclosure of certain assessment records.

71 A. All property appraisal cards or sheets within the custody of a county, city or town assessing
 72 officer, except those cards or sheets containing information made confidential by § 58.1-3, shall be open
 73 for inspection, after the notice of reassessment is mailed as provided in § 58.1-3330, the normal office
 74 hours of such official by any taxpayer, or his duly authorized representative, desiring to review such
 75 cards or sheets.

76 B. Any taxpayer, or his duly authorized representative, whose real property has been assessed for
 77 taxation shall, upon request, be allowed to examine the working papers used by any such assessing
 78 official in arriving at the appraised and assessed value of such person's land and any improvements
 79 thereon.

80 C. *Upon request of any taxpayer or his duly authorized representative, the assessing officer of the
 81 governing body shall make available information regarding the methodology employed in the calculation
 82 of a property's assessed value to include the capitalization rate used to determine the property's value, a
 83 list of comparable properties or sales figures considered in the valuation, and any other market surveys,
 84 formulas, matrices, or other factors considered in determining the value of the property. Nothing in this
 85 section shall be construed to require disclosure of information that is prohibited from disclosure
 86 pursuant to §§ 58.1-3 and 58.1-3294.*

87 D. The assessing officer of the governing body may fix and promulgate a limited period within
 88 normal office hours when such records shall be available for inspection and copying, but such period of
 89 time may not be less than four hours per day on Monday through Friday, except on such days when the
 90 office is otherwise closed.

91 E. *If, within at least five days prior to any action by a court under § 58.1-3984 or by a board of
 92 equalization under § 58.1-3379, the assessing officer fails to disclose or make available for inspection
 93 any information required to be disclosed or made available for inspection and copying under this
 94 section, then the assessing official and the applicable local government shall not be allowed to introduce
 95 such information or use it in any other manner in any such appeal.*

96 § 58.1-3374. Qualifications of members; vacancies.

97 Except as provided in § 58.1-3371 or § 58.1-3373, every board of equalization shall be composed of
 98 not less than three nor more than five members. All members of every board of equalization shall be
 99 residents, a majority of whom shall be freeholders, in the county or city for which they are to serve and
 100 shall be selected from the citizens of the county or city. Appointments to the board of equalization shall
 101 be broadly representative of the community. Thirty percent of the members of the board shall be
 102 commercial or residential real estate appraisers, other real estate professionals, builders, developers, or
 103 legal or financial professionals, and at least one such member shall sit in all cases involving commercial,
 104 industrial or multi-family residential property, unless waived by the taxpayer. No member of the board
 105 of assessors shall be eligible for appointment to the board of equalization for the same reassessment. In
 106 order to be eligible for appointment, each prospective member of such board shall attend and participate
 107 in the basic course of instruction given by the Department of Taxation under § 58.1-206. In addition, at
 108 least once in every four years of service on a board of equalization, each member of a board of
 109 equalization shall take continuing education instruction provided by the Tax Commissioner pursuant to
 110 § 58.1-206. Any vacancy occurring on any board of equalization shall be filled for the unexpired term
 111 by the authority making the original appointment.

112 On any board or panel thereof considering appeals of commercial or multi-family residential
 113 property in a locality with a population exceeding 100,000, 30 percent of the members of such board or
 114 panel shall be commercial or multi-family residential real estate appraisers who are licensed and
 115 certified by the Virginia Real Estate Appraiser Board to serve as general real estate appraisers, other
 116 commercial or multi-family real estate professionals or licensed commercial or multi-family real estate
 117 brokers, builders, developers, active members of the Virginia State Bar, or other legal or financial

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118 professionals who have knowledge of the valuation of property, real estate transactions, building costs,
119 accounting, finance, or statistics. For the purposes of this section, commercial or multi-family residential
120 property shall be defined as any property that is either operated as or zoned for use as commercial,
121 industrial or multi-family residential rental property.

122 § 58.1-3379. Hearing complaints and equalizing assessments.

123 A. The board shall hear and give consideration to such complaints and shall adjust and equalize such
124 assessments and shall, moreover, be charged with the especial duty of increasing as well as decreasing
125 assessments, whether specific complaint be laid or not, if in its judgment, the same be necessary to
126 equalize and accomplish the end that the burden of taxation shall rest equally upon all citizens of such
127 county or city.

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

132 C. The burden of proof shall be upon a taxpayer seeking relief to show that the property in question
133 is valued at more than its fair market value, that the assessment is not uniform in its application, or that
134 the assessment is otherwise not equalized. In order to receive relief, the taxpayer must produce
135 substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in
136 accordance with generally accepted appraisal practice, procedures, rules, and standards as
137 prescribed by nationally recognized professional appraisal organizations such as the International
138 Association of Assessing Officers (IAAO). Mistakes of fact, including computation, that affect the
139 assessment shall be deemed not to be in accordance with generally accepted appraisal practice.

140 D. *In any case before the board concerning a taxpayer's complaint in which the commissioner of the
 141 revenue or other local assessing officer requests the board to increase the assessment after the taxpayer
 142 files an appeal to the board on a commercial, multifamily residential, or industrial property, the
 143 commissioner or other officer shall provide the taxpayer notice of the request not less than 14 days
 144 prior to the hearing of the board. Except as provided herein, if the taxpayer contests the requested
 145 increase, the assessor shall either withdraw the request or shall provide the board an appraisal
 146 performed by an independent contractor who is licensed and certified by the Virginia Real Estate
 147 Appraiser Board to serve as a general real estate appraiser, which appraisal affirms that such increase
 148 in value represents the property's fair market value as of the date of the assessment in dispute. The
 149 provisions of this subsection that require that the assessor provide the board with an appraisal shall not
 150 apply if (i) the requested increase is based on mistakes of fact, including computation errors, or (ii) the
 151 information on which the commissioner or other officer bases the requested increase was available to,
 152 but not provided by, the taxpayer in response to a request for information made by the commissioner or
 153 other officer at the time the challenged assessment was made.*

154 E. The commissioner of the revenue or other local assessing officer of such county or city shall,
155 when requested, attend the meetings of the board, without additional compensation, and shall call the
156 attention of the board to such inequalities in real estate assessments in his county or city as may be
157 known to him.

158 F. Every board of equalization may go upon and inspect any real estate subject to adjustment or
159 equalization by it.

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

- 164** 2. That the provisions of this act amending § 58.1-3295 of the Code of Virginia shall become
165 effective for assessments for tax years beginning on or after January 1, 2011.
- 166** 3. That the provisions of this act amending § 58.1-3374 of the Code of Virginia shall become
167 effective for appeals relating to assessments for tax years beginning on or after January 1, 2011.
- 168** 4. That the provisions of this act amending § 58.1-3379 of the Code of Virginia shall become
169 effective for board of equalization hearings held on or after October 1, 2010.