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HOUSE BILL NO. 1588

Offered January 12, 2011

Prefiled January 6, 2011

A BILL to amend and reenact §§ 58.1-3379, 58.1-3381, and 58.1-3984 of the Code of Virginia, relating to real property tax assessments; appeals.

Patrons—Iaquinto, Athey, Bell, Richard P., Byron, Carrico, Cole, Comstock, Cosgrove, Cox, M.K., Howell, W.J., Hugo, Joannou, Knight, LeMunyon, Lingamfelter, Massie, Purkey, Rust, Scott, E.T., Stolle and Villanueva; Senators: McWaters, Northam, Puckett and Puller

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3379, 58.1-3381, 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, 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.

CB. The burden of proof shall be upon the assessor when a taxpayer seeking seeks relief to show that because 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 practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers (IAAO). Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice. The fact that the assessor did not make a physical examination of the property in question, except when such is required pursuant to § 58.1-3280, shall not be considered in determining whether the assessor meets his burden of proof under this section.

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

ED. 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.

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

GF. The burdens and standards set out in subsections subsection 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

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HB1588

57 circuit courts pursuant to §§ 58.1-3984 through 58.1-3987.

58 § 58.1-3381. Action of board; notice required before increase made.

59 A. The board shall hear and determine any and all such petitions and, by order, may increase,
60 decrease or affirm the assessment of which complaint is made; and, by order, it may increase or
61 decrease any assessment, upon its own motion. No assessment shall be increased until after the owner of
62 the property has been notified and given an opportunity to show cause against such increase, unless such
63 owner has already been heard.

64 B. Any determination of the assessment by the board shall be deemed presumptively correct for the
65 succeeding two years unless the assessor can demonstrate by clear and convincing evidence that a
66 substantial change in value of the property has occurred. ~~This subsection shall apply to the City of~~
67 ~~Virginia Beach.~~

68 § 58.1-3984. Application to court to correct erroneous assessments of local levies generally.

69 A. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise
70 specially provided by law (including, but not limited to, as provided under (i) § 15.2-717 and (ii) § 3 of
71 Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code
72 of Virginia; and now continued in effect by § 58.1-3260), as amended by Chapter 422 of the Acts of
73 Assembly of 1950, as amended by Chapter 339 of the Acts of Assembly of 1958, and as amended by
74 the 2003 Regular Session of the General Assembly), (a) within three years from the last day of the tax
75 year for which any such assessment is made, (b) within one year from the date of the assessment, (c)
76 within one year from the date of the Tax Commissioner's final determination under § 58.1-3703.1 A 5 or
77 § 58.1-3983.1 D, or (d) within one year from the date of the final determination under § 58.1-3981,
78 whichever is later, apply for relief to the circuit court of the county or city wherein such assessment was
79 made. The application shall be before the court when it is filed in the clerk's office. In such ~~proceeding~~
80 *proceedings, except for proceedings seeking relief from real property taxes, the burden of proof shall be*
81 *upon the taxpayer to show that the property in question is valued at more than its fair market value or*
82 *that the assessment is not uniform in its application, or that the assessment is otherwise invalid or*
83 *illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful*
84 *discrimination has been made. In proceedings seeking relief from real property taxes, the burden of*
85 *proof shall be upon the county or city to show that the property in question is valued at its fair market*
86 *value or that the assessment is uniform in its application, or that the assessment is otherwise valid or*
87 *legal. The fact that the assessment did not include a physical examination of the property in question,*
88 *except when such is required pursuant to § 58.1-3280, shall not be considered in determining whether*
89 *the county or city meets its burden of proof.*

90 ~~The proceedings~~ A proceeding under this section shall be conducted as an action at law before the
91 court, sitting without a jury. The county or city attorney, or if none, the attorney for the Commonwealth,
92 shall defend the application.

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

98 **2. That the provisions of this act are applicable to tax years beginning on or after January 1,**
99 **2011.**