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HOUSE BILL NO. 1128

House Amendments in [] — February 8, 2012

A BILL to amend and reenact §§ 58.1-3969, 58.1-3971, and 58.1-3974 of the Code of Virginia, relating to delinquent real property taxes.

Patron Prior to Engrossment—Delegate Johnson

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3969, 58.1-3971, and 58.1-3974 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3969. Order of reference; appointment of special commissioner to make sale; costs; attorney fees.

The court shall have the option, for good cause shown *after proper objection made by any party respondent*, to refer the case to a commissioner in chancery for hearing and report, in which case, the order of reference shall be to a commissioner in chancery or special master other than the attorney (or any attorney practicing in the same firm as the attorney) employed to subject the real estate to the lien of any taxes. Upon (i) receipt of proper service of process on all parties defendant, a written real estate title certificate and the written report of a licensed real estate appraiser where there is no dispute as to title or value, (ii) the receipt of the report of the commissioner in chancery, or (iii) where the assessor for the locality files an affidavit with the court of value and the value is averred to not exceed \$100,000, the court may appoint a special commissioner to sell the properties and execute the necessary deeds when a sale is found necessary or advisable. The court may designate the attorney employed by the governing body of the locality to bring the suit. However, if the property is deemed abandoned in accordance with § 58.1-3965, the court shall not be required to refer the case to the commissioner in chancery.

The sale price achieved at a public auction shall be prima facie, but rebuttable, evidence of the value of the property for purposes of the approval of the sale. If the attorney employed by the governing body of the locality be appointed a special commissioner to sell the land and execute the deed and he has already given the bond hereinabove mentioned, no additional bond shall be required of him as special commissioner unless the court regards the bond already given as insufficient in amount. No fee or commission shall be allowed or paid to any attorney for acting under the order of reference or as special commissioner, except as hereinafter provided, and the compensation contracted to be paid any such attorney by the governing body, whether the employment was on a salary, commission or other basis, shall be in full for all services rendered by him. The court shall allow as part of the costs, to be paid into the treasury of the locality, a reasonable sum to defray the cost of its attorneys and the expenses of publication and appraisal necessary for the purpose of instituting such suit and such fees and commissions, including fees for preparing and executing deeds, as would be allowed if the suit were an ordinary lien creditor's suit. When the special commissioner is other than the attorney employed by the locality the court may allow him reasonable fees for selling the land and executing the deed, payable out of the proceeds of sale.

In any case in which the attorney representing the locality and the governing body thereof have failed to reach an agreement as to a salary or commission or other basis as compensation for the services of such attorney, the court in which any proceedings are brought under this article may allow from the proceeds of the sale of any such real estate such fee as the court shall deem reasonable and proper to the attorney representing any such locality in such proceeding.

§ 58.1-3971. Property improperly placed on delinquent land books.

A. The attorney shall periodically report to the governing body employing him every parcel of real estate which he ascertains to be improperly placed on the delinquent land books and the governing body, upon satisfying itself of the correctness of the report, or correcting it to conform to the facts, shall certify the information to the treasurer who shall mark his delinquent land book accordingly. *The attorney shall make the same report to the commissioner of the revenue, [who shall revise the land records as necessary to implement the report of the attorney, and request that the commissioner of the revenue correct the assessment of such property pursuant to § 58.1-3381 and the attorney shall, to the extent necessary if the correction is not or cannot be made pursuant to § 58.1-3381, move the court to enter an order correcting such assessment accordingly.]*

B. If any parcel which is improperly placed on the delinquent land books is sold under the provisions of this article, the purchaser shall be entitled to a refund of the entire amount he paid for

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HB1128E

59 such parcel. The governing body shall reimburse the court or the appropriate party for costs and fees
60 allowed out of such payment.

61 § 58.1-3974. Redemption of land by owner; lien for taxes paid.

62 Any owner of the real estate described in any notice published pursuant to § 58.1-3965 or any bill in
63 equity filed pursuant to this article, or his or their heirs, successors and assigns, shall have the right to
64 redeem such real estate prior to the date set for a judicial sale thereof by paying into court all taxes,
65 penalties and interest due with respect to such real estate, *including any outstanding taxes, penalties, and*
66 *interest owed to a town or other concurrent taxing entity*, together with all costs including costs of
67 publication and a reasonable ~~attorney's~~ attorney fee set by the court. Any person who has paid any taxes
68 on such real estate shall have a lien thereon for any taxes paid, plus interest at the rate of six percent
69 per year.