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HOUSE BILL NO. 461

Offered January 11, 2012

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A BILL to amend and reenact §§ 21-118.4, 58.1-535, 58.1-3903, 58.1-3916, 58.1-3916.02, 58.1-3981, and 58.1-3987 of the Code of Virginia and to repeal § 58.1-3918 of the Code of Virginia, relating to local taxes; interest and penalties.

Patron—Byron

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 21-118.4, 58.1-535, 58.1-3903, 58.1-3916, 58.1-3916.02, 58.1-3981, and 58.1-3987 of the Code of Virginia are amended and reenacted as follows:

§ 21-118.4. Certain additional powers of governing body.

Notwithstanding any other provisions of law, when an order has been entered creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors," shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to and operate motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

(a1) To acquire, construct, maintain and operate, or to contract for such acquisition, construction, maintenance and operation, within such sanitary district, such community buildings, community centers, other recreational facilities and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease or otherwise, and to maintain and operate any such motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to and operate any such motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority or the federal government or any agency thereof for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a ~~fifty-dollar~~ \$50 fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least ~~ten~~ 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until ~~ten~~ 10 days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed ~~ten~~ 10 percent of the amount due or ~~ten dollars~~ \$10, whichever is the greater, and interest on outstanding bills at the rate ~~provided for in § 58.1-3918~~ of 10 percent, after a public hearing upon notice as provided in

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subdivision (d) and to provide for the collection of such charges. In fixing such rates, the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. The board of supervisors may provide for the exemption from, deferral of, or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least ~~sixty-five~~ 65 years of age or persons permanently and totally disabled as defined in § 58.1-3217. Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria as provided by § 58.1-3211 as in effect on December 31, 2010. And to enable the board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers, person or persons as it may determine, and the officer or officers, person or persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within ~~thirty~~ 30 days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such ~~thirty-day~~ 30-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within ~~thirty~~ 30 days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees or charges with interest, shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such ~~thirty-day~~ 30-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of ~~five dollars~~ \$5 per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to

collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of ~~two dollars~~ \$2, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of ~~one dollar~~ \$1 by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia, to construct or contract to construct within such sanitary district, at the request of the school board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within ~~sixty~~ 60 days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.2-5000; and shall be repaid not later than either December 15 of the year in which they are borrowed or ~~fifteen~~ 15 days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of ~~ninety~~ 90 days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in

182 full any delinquent charges for which he would be responsible for paying. No board shall refuse to
183 service or unreasonably delay reinstatement of service to premises where such occupant who is
184 delinquent has vacated the premises and a new party has applied for service provided such owner has
185 paid in full such delinquent charges as he would be responsible for paying.

186 § 58.1-535. Application of funds on deposit.

187 A. In addition to the collection remedy provided in this article, if a claimant agency has on deposit
188 any funds which are due to the debtor, the claimant agency may apply such funds to the payment of any
189 delinquent debt which the debtor owes to the claimant agency, provided that the claimant agency first
190 provides written notification to the debtor of its intent to apply the funds against the debt.

191 B. The contents of the written notification to the debtor shall clearly set forth the basis for the claim
192 to the funds on deposit, the intention to apply the funds against the debt to the claimant agency, and the
193 right of the debtor to contest the validity of the claim before the claimant agency.

194 C. If as the result of an error by the claimant agency a debtor is denied all or a portion of his funds
195 under the provisions of this section, interest shall be paid by the claimant agency to the debtor at the
196 overpayment rate provided in § 58.1-15 for the time such funds were denied, except that a county, city
197 or town shall pay interest in the manner prescribed in § 58.1-3916 ~~or § 58.1-3918~~.

198 D. As used in this section:

199 "Debtor" means any individual, business or group having a delinquent debt or account with any
200 claimant agency which obligation has not been satisfied by court order, set aside by court order, or
201 discharged in bankruptcy.

202 "Funds on deposit" means any funds of a debtor that a claimant agency may have in its possession,
203 including overpayments of taxes and any funds due to a debtor arising from a contractual agreement
204 with a claimant agency.

205 § 58.1-3903. Omitted local taxes or levies.

206 If the commissioner of the revenue of any county or city or the tax-assessing officer of any town
207 ascertains that any local tax has not been assessed for any tax year of the three preceding tax years or
208 that the same has been assessed at less than the law required for any one or more of such years, or that
209 the taxes for any cause have not been realized, the commissioner of the revenue or other assessing
210 officer shall list and assess the same with taxes at the rate or rates prescribed for that year, adding
211 thereto penalty and interest at the rate provided under §§ 58.1-3916 ~~and 58.1-3918~~. Interest may be
212 computed upon the taxes and penalty from the first day following the due date in the year in which
213 such taxes should have been paid and shall accrue thereon from such date until payment; provided, if
214 such assessment was necessitated through no fault of the taxpayer, such penalty and interest shall accrue
215 after ~~thirty~~ 30 days from such date of assessment until payment.

216 § 58.1-3916. Counties, cities and towns may provide dates for filing returns, set penalties, interest,
217 etc.

218 Notwithstanding provisions contained in §§ 58.1-3518, 58.1-3900, 58.1-3913, ~~and 58.1-3915, and~~
219 ~~58.1-3918~~, the governing body of any county, city, or town may provide by ordinance the time for filing
220 local license applications and annual returns of taxable tangible personal property, machinery and tools,
221 and merchants' capital. The governing body may also by ordinance establish due dates for the payment
222 of local taxes; may provide that payment be made in a single installment or in two equal installments;
223 may offer options, which may include coupon books and payroll deductions, which allow the taxpayer
224 to determine whether to pay the tangible personal property tax through monthly, bimonthly, quarterly, or
225 semiannual installments or in a lump sum, provided such taxes are paid in full by the final due date;
226 may provide by ordinance penalties for failure to file such applications and returns and for nonpayment
227 in time; may provide for payment of interest on delinquent taxes; and may provide for the recovery of
228 reasonable attorney's or collection agency's fees actually contracted for, not to exceed 20 percent of the
229 delinquent taxes and other charges so collected. A locality that provides for payment of interest on
230 delinquent taxes shall provide for interest at the same rate on overpayments due to erroneously assessed
231 taxes to be paid to the taxpayer, provided that no interest shall be required to be paid on such refund if
232 (i) the amount of the refund is \$10 or less or (ii) the refund is the result of proration pursuant to
233 § 58.1-3516. A court that finds that an overpayment of local taxes has been made in an action brought
234 pursuant to § 58.1-3984 shall award interest at the appropriate rate, notwithstanding the failure of the
235 locality to conform its ordinance to the requirements of this section.

236 Notwithstanding any contrary provision of law, the local governing body shall allow an automatic
237 extension on real property taxes imposed upon a primary residence and personal property taxes imposed
238 upon a qualifying vehicle, as defined in § 58.1-3523, owed by members of the armed services of the
239 United States deployed outside of the United States. Such extension shall end and the taxes shall be due
240 90 days following the completion of such member's deployment. For purposes of this section, "the
241 armed services of the United States" includes active duty service with the regular Armed Forces of the
242 United States or the National Guard or other reserve component.

243 No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures

prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

Interest may commence not earlier than the first day following the day such taxes are due by ordinance to be filed, at a rate *per year* not to exceed ~~10 percent per year~~ the "Underpayment Rate" established pursuant to § 6621 of the Internal Revenue Code of 1954, as amended. The governing body may impose interest at a rate not to exceed the ~~rate of interest~~ "Underpayment Rate" established pursuant to § 6621 of the Internal Revenue Code of 1954, as amended, ~~or 10 percent annually, whichever is greater,~~ plus two percent for the second and subsequent years of delinquency. *Separate computations of interest under this section shall be made by multiplying the deficiency or overpayment for each period by the rate of interest applicable to that period.*

No penalty for failure to pay a tax or installment shall exceed (i) 10 percent of the tax past due on such property; (ii) in the case of delinquent tangible personal property tax more than 30 days past due on property classified pursuant to subdivision A 15, A 16, or A 20 of § 58.1-3506, which remains unpaid after 10 days' written notice sent by United States mail to the taxpayer of the intention to impose a penalty pursuant hereto, the penalty shall not exceed an amount equal to the difference between the tax due and owing with respect to such property and the tax that would have been due and owing if the property in question had been classified as general tangible personal property pursuant to § 58.1-3503; (iii) in the case of delinquent tangible personal property tax more than 30 days past due, 25 percent of the tax past due on such tangible personal property; (iv) in the case of delinquent remittance of excise taxes on meals, lodging, or admissions collected from consumers, 10 percent for the first month the taxes are past due, and five percent for each month thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or (v) \$10, whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable. No penalty for failure to file a return shall be greater than 10 percent of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make return of taxable property as may be required by law or ordinance. Penalty for failure to file an application or return may be assessed on the day after such return or application is due; penalty for failure to pay any tax may be assessed on the day after the first installment is due. Any such penalty when so assessed shall become a part of the tax.

No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local official, and if such assessment is paid within two weeks after the notice thereof is mailed.

In the event a transfer of real property ownership occurs after January 1 of a tax year and a real estate tax bill has been mailed pursuant to §§ 58.1-3281 and 58.1-3912, the treasurer or other appropriate local official designated by ordinance of the local governing body in jurisdictions not having a treasurer, upon ascertaining that a property transfer has occurred, may invalidate a bill sent to the prior owner and reissue the bill to the new owner as permitted by § 58.1-3912, and no penalty for failure to pay any tax for any such assessment shall be imposed if the tax is paid within two weeks after the notice thereof is mailed.

Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer, or was the fault of the commissioner of revenue or the treasurer, as the case may be. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period. The treasurer shall make determinations of fault relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of fault relating exclusively to failure to file a return. In jurisdictions not having a treasurer or commissioner of the revenue, the governing body may delegate to the appropriate local tax officials the responsibility to make the determination of fault.

In addition, penalty and interest may be waived whenever good cause exists. The treasurer shall make determinations of good cause relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of good cause relating exclusively to failure to file a return. In

jurisdictions not having a treasurer or commissioner of the revenue, the governing body may delegate to the appropriate local tax officials the responsibility to make the determination of good cause.

The governing body may further provide by resolution for reasonable extensions of time, not to exceed 90 days, for the payment of real estate and personal property taxes and for filing returns on tangible personal property, machinery and tools, and merchants' capital, and the business, professional, and occupational license tax, whenever good cause exists. The official granting such extension shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

This section shall be the sole authority for local ordinances setting due dates of local taxes and penalty and interest thereon, and shall supersede the provisions of any charter or special act.

§ 58.1-3916.02. Certain counties, cities and towns may provide billing alternatives.

Notwithstanding the provisions contained in §§ 58.1-3518, 58.1-3900, 58.1-3913, 58.1-3915, and 58.1-3916, ~~and 58.1-3918~~, the governing body of Prince William County may provide by ordinance for alternative due dates for the payment of real estate taxes for real estate owned and occupied as the sole dwelling of anyone at least 65 years of age or anyone found to be permanently or totally disabled as defined in § 58.1-3217. In addition, the governing body may limit the use of such alternative due dates to persons qualifying under Prince William County's real estate tax exemption, tax deferral, or combination program of exemptions and deferrals adopted under the authority of Article 2 (§ 58.1-3210 et seq.) of Chapter 32 of this title.

Such ordinance may provide for monthly, bimonthly, quarterly, or semiannual installments, and may further provide that late payment penalties and interest shall accrue if each installment is not timely made. Should Prince William County adopt monthly, bimonthly, or quarterly due dates, said due dates may extend into the subsequent tax year, but shall not exceed more than 180 days from the first day of the subsequent tax year.

§ 58.1-3981. Correction by commissioner or other official performing his duties.

A. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that he has erroneously assessed such applicant with any such tax, he shall correct such assessment. If the assessment exceeds the proper amount, he shall exonerate the applicant from the payment of so much as is erroneously charged if not paid into the treasury of the county or city. If the assessment has been paid, the governing body of the county or city shall, upon the certificate of the commissioner with the consent of the town, city or county attorney, or if none, the attorney for the Commonwealth, that such assessment was erroneous, direct the treasurer of the county, city or town to refund the excess to the taxpayer, with interest if authorized pursuant to ~~§ 58.1-3918~~ or in the ordinance authorized by § 58.1-3916, or as otherwise authorized in that section. However, the governing body of the county, city or town may authorize the treasurer to approve and issue any refund up to \$2,500 as a result of an erroneous assessment.

B. If the assessment is less than the proper amount, the commissioner shall assess such applicant with the proper amount. If any assessment is erroneous because of a mere clerical error or calculation, the same may be corrected as herein provided and with or without petition from the taxpayer. If such error or calculation was made in work performed by others in connection with conducting general assessments, such mistake may be corrected by the commissioner of the revenue.

C. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that any assessment is erroneous because of a factual error made in work performed by others in connection with conducting general reassessments, he shall correct such assessment as herein provided and with or without petition from the taxpayer.

D. An error in the valuation of property subject to the rollback tax imposed under § 58.1-3237 for those years to which such tax is applicable may be corrected within three years of the assessment of the rollback tax.

E. A copy of any correction made under this section shall be certified by the commissioner or such other official to the treasurer of his county, city or town. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the commissioner or such other official making such correction shall certify a copy of such correction to the clerk of the circuit court of his county or city; and such clerk shall note such correction in the delinquent land book opposite the entry of the tract or lot for the year or years for which such correction is made.

F. In any action on application for correction under § 58.1-3980, if so requested by the applicant, the commissioner or other such official shall state in writing the facts and law supporting the action on such application and mail a copy of such writing to the applicant at his last known address.

§ 58.1-3987. Action of court.

If the court is satisfied from the evidence that the assessment is erroneous and that the erroneous assessment was not caused by the wilful failure or refusal of the applicant to furnish the tax-assessing

authority with the necessary information, as required by law, the court may order that the assessment be corrected and that the applicant be exonerated from the payment of so much as is erroneously charged, if not already paid. If the tax has been paid, the court shall order that it be refunded to the taxpayer, with interest at the rate provided by ~~§ 58.1-3918~~ or in the ordinance authorized by § 58.1-3916, or as otherwise authorized in that section.

If, in the opinion of the court, any property is valued for taxation at more than fair market value, the court may reduce the assessment to what in its opinion based on the evidence is the fair market value of the property involved. If, in the opinion of the court, the assessment be less than fair market value, the court shall order it increased to what in its opinion is the fair market value of the property involved and shall order that the applicant pay the proper taxes.

For the purpose of reducing or increasing the assessment and adjusting the taxes, the court shall have all the powers and duties of the authority which made the assessment complained of, as of the time when such assessment was made, and all powers and duties conferred by law upon such authority between the time such assessment was made and the time such application is heard.

2. That § 58.1-3918 of the Code of Virginia is repealed.