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HOUSE BILL NO. 483

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 58.1-3381, 58.1-3903, and 58.1-3981 of the Code of Virginia, relating to real property taxes; collection.

Patron—Iaquinto

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3381, 58.1-3903, and 58.1-3981 of the Code of Virginia are amended and reenacted as follows:

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

A. The board shall hear and determine any and all such petitions and, by order, may increase, decrease or affirm the assessment of which complaint is made; and, by order, it may increase or decrease any assessment, upon its own motion. No assessment shall be increased until after the owner of the property has been notified and given an opportunity to show cause against such increase, unless such owner has already been heard. *Any increase in assessments for prior years is subject to the restrictions in § 58.1-3903.*

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

§ 58.1-3903. Omitted local taxes or levies.

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

B. *For real property taxes concerning the validity of the valuation of the property, the new assessment or increase in assessment pursuant to subsection A is authorized only if the lack of assessment or error in assessment resulted from (i) fraud on the part of the taxpayer or (ii) regardless of any fraud on the part of the taxpayer, new construction or construction of any improvements on the property or a change in the use of tax-exempt property that nullifies the exemption.*

§ 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. ¶ *Except for real property assessments for prior years governed under subsection B of § 58.1-3903, 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. ¶ *Except for real property assessments for prior years that are less than the proper amount and*

59 *are governed under subsection B of § 58.1-3903, if* the commissioner of the revenue, or other official
60 performing the duties imposed on commissioners of the revenue under this title, is satisfied that any
61 assessment is erroneous because of a factual error made in work performed by others in connection with
62 conducting general reassessments, he shall correct such assessment as herein provided and with or
63 without petition from the taxpayer.

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

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

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