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HOUSE BILL NO. 1416

Offered January 14, 2015

Prefiled December 22, 2014

A BILL to amend and reenact § 58.1-3984 of the Code of Virginia, relating to real property tax; appeal to court.

Patron—Taylor

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3984 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3984. Application to court to correct erroneous assessments of local levies generally.**

A. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise specially provided by law (including, but not limited to, as provided under (i) § 15.2-717 and (ii) § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260), as amended by Chapter 422 of the Acts of Assembly of 1950, as amended by Chapter 339 of the Acts of Assembly of 1958, and as amended by the 2003 Regular Session of the General Assembly), (a) within three years from the last day of the tax year for which any such assessment is made, (b) within one year from the date of the assessment, (c) within one year from the date of the Tax Commissioner's final determination under § 58.1-3703.1 A 5 or § 58.1-3983.1 D, or (d) within one year from the date of the final determination under § 58.1-3981, whichever is later, apply for relief to the circuit court of the county or city wherein such assessment was made. The application shall be before the court when it is filed in the clerk's office. In such proceedings, except for proceedings seeking relief from real property taxes, the burden of proof shall be upon the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful discrimination has been made.

All proceedings pursuant to this section shall be conducted as an action at law before the court, sitting without a jury. The county or city attorney, or if none, the attorney for the Commonwealth, shall defend the application.

B. In circuit court proceedings to seek relief from real property taxes, ~~there shall be a presumption that the valuation determined by the assessor or as adjusted by the board of equalization is correct. The~~ *neither party shall have the burden of proof shall be on the taxpayer to rebut such presumption and show by a preponderance of the. Each party, beginning with the county, city, or town, shall present evidence that whether the property in question is valued at more than its fair market value or that; whether the assessment is not uniform in its application; and that it whether the assessment 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) and applicable Virginia law relating to valuation of property. Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice.

However, in any appeal of the assessment of residential property filed by a taxpayer as an owner of real property containing less than four residential units, the assessing officer shall give the required written notice to the taxpayer, or his duly authorized representative, under subsection E of § 58.1-3331, and, upon written request, shall provide the taxpayer or his duly authorized representative copies of the assessment records set out in subsections A, B, and C of § 58.1-3331 pertaining to the assessing officer's determination of fair market value of the property under appeal. A written request by the taxpayer or his duly authorized representative shall be made following the filing of the appeal to circuit court and no later than 45 days prior to trial, unless otherwise provided by an order of the court before which the appeal is pending. Provided the written request is made in accordance with this section or any applicable court order, the assessing officer shall provide such records within 15 days of the written request to the taxpayer or his duly authorized representative. If the assessing officer fails to do so, the assessing officer shall present the following into evidence prior to the presentation of evidence by the taxpayer at the hearing: (i) copies of the assessment records maintained by the assessing officer under § 58.1-3331, (ii) testimony that explains the methodologies employed by the assessing officer to determine the assessed value of the property, and (iii) testimony that states that the assessed value was arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally

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59 recognized professional appraisal organizations such as the International Association of Assessing
60 Officers (IAAO) and applicable Virginia law relating to valuation of property. ~~Upon the conclusion of~~
61 ~~the presentation of the evidence of the assessing officer, the taxpayer shall have the burden of proof by~~
62 ~~a preponderance of the evidence to rebut such evidence presented by the assessing officer as otherwise~~
63 ~~provided in this section.~~

64 C. The presumptions, burdens, and standards set out in subsection B shall not be construed to change
65 or have any effect upon the presumptions, burdens, and standards applicable to applications for the
66 correction of erroneous assessments of any local tax other than real property taxes.

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